

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
(Boston Division)

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 05-10983 (NMG)
	:	
STEVEN E. NOTHERN,	:	
	:	
Defendant.	:	
	:	

DECLARATION OF ROBERT E. TOONE FILED IN SUPPORT OF DEFENDANT'S MOTION TO TAKE SUPPLEMENTAL DEPOSITIONS

Robert E. Toone, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am an attorney for Steven E. Nothern in the above-referenced matter. I am a member of the Massachusetts bar and the bar of this Court. Except where otherwise indicated, I make this declaration based upon my own personal knowledge, upon public records, and upon the documents related to this action.

2. Pursuant to this Court's December 3, 2007 Order in the related Freedom of Information Act case *Nothern v. U.S. Department of the Treasury*, No. 07-cv-10661-NMG (D. Mass.), the Department of the Treasury ("Treasury") produced 59 pages of handwritten interview notes on December 10, 2007. True and correct copies of notes from this production relating to a 2001 interview of Treasury employee Jill Cetina are attached hereto as Exhibit A. True and correct copies of notes from this production relating to a January 14, 2002 interview of Treasury Director of Market Finance Paul Malvey, conducted by Treasury and the SEC, are attached hereto as Exhibit B.

3. True and correct copies of e-mail correspondence documenting efforts by Nothern's counsel to schedule promptly the depositions of Treasury employees Jill Cetina, Michele Davis, Elnora Bowser, Steve Berardi, and David Aufhauser, pursuant to this Court's Orders in the related Administrative Procedure Act case *Nothern v. U.S. Department of the Treasury*, No. 07-cv-10347-NMG (D. Mass.), are attached as Exhibit C.

4. A true and correct copy of a letter from John A. Shope at Foley Hoag LLP to Erica Y. Williams at the Securities and Exchange Commission, dated February 25, 2008, is attached hereto as Exhibit D.

5. A true and correct copy of a letter from Erica Y. Williams at the Securities and Exchange Commission to John A. Shope at Foley Hoag LLP, dated February 28, 2008, is attached hereto as Exhibit E.

6. A true and correct copy of e-mail messages of Jill Cetina, set forth as Exhibit 10 to the Report of the Office of the Inspector General, Department of the Treasury (Jan. 2002), is attached hereto as Exhibit F.

7. True and correct copies of e-mails Bates-stamped FOIAKBC 400, 401, and 437 and produced by Treasury in its February 2007 FOIA production are attached hereto as Exhibit G.

8. True and correct excerpts from the deposition transcript of Jill Cetina (February 8, 2008) in *United States Securities and Exchange Commission v. Steven E. Nothern*, No. 1:05-cv-10983-NMG (D. Mass.), are attached hereto as Exhibit H.

9. True and correct excerpts from the deposition transcript of Peter Fisher (August 8, 2006) in *United States Securities and Exchange Commission v. Steven E. Nothern*, No. 1:05-cv-10983-NMG (D. Mass.), are attached hereto as Exhibit I.

10. True and correct excerpts from the deposition transcript of David Aufhauser (February 22, 2008) in *United States Securities and Exchange Commission v. Steven E. Nothern*, No. 1:05-cv-10983-NMG (D. Mass.), are attached hereto as Exhibit J.

11. True and correct excerpts from the deposition transcript of Paul Malvey (August 8, 2006) in *United States Securities and Exchange Commission v. Steven E. Nothern*, No. 1:05-cv-10983-NMG (D. Mass.), are attached hereto as Exhibit K.

12. True and correct excerpts and corresponding exhibits from the SEC investigative testimony of Raymond Walton (April 23, 2003) are attached hereto as Exhibit L.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 21, 2008.

/s/ Robert E. Toone

Exhibit A

4:36pm

Sell

Andrew Spauldin 942-4800
Rosemary Falci
John

4 years

International Economist at Market Room
↳ 2 years.

- Provide info. to market analysts/ participants - hedge funds, primary dealers.
- Contacts are bilateral.
- 4 professionals in dept. One currently on detail for tourism.
- There were only
- Tim Dulaney - Office Dir. Market Room
Luis Dunn
Tim Sherer -
Kathleen Byrne

Mike Now (Pax)
927-5421

- 2.
- officially aware of suspension at 9:30 am. from press release
 - 10/23/01 morning w/ market participant - regular talk he raised eliminating the bond. - told her he had met w/ other people at Treasury prior to her.
 - Drew Matus - Lehman Bros. - Strategist for Treasury mkt.
 - Told him she didn't know anything @ it. She thought opinion was gassy.
 - Wrote up on 10/23/01 - speaking w/ Drew - he said Treasury could eliminate bond & buy back programs.
 - Everyone thought time was 9:45 am. fact that Fisher was doing conference.
 - Night beforehand a person from Domestic Financing exec., Norm Carlton, said there could be mkt. moving event the next day.
 - 5:30am - comes in in the morning - called a 2 couple of calls to Treasury mkt. to London, everyone was talking @ GDP. Primary dealers' London desk

3.

- GDP # came ~~up~~ out at 8:30, which was better than expected, but didn't make bond move lower.
- At c 9:35, price of bond went up.
- A little before 10:00 am, Reikes' deadline had suspension and she emailed grp. that it came out early.

MCM Currency Watch - 9:45am - suspension didn't see it at 9:45am.

- 10 year notes were announced on Oct. 4th at 11:00am. Some dealers alleged - HSBC - New York desk - Bob Sbarra - Credits just Boston - Pat Hascal they mentioned 10 year in conjunction w/ complaining of release of info. early on the bond.
 - a) Lehman Bros.] mentioned on the 3rd.
 - b) Goldman Sachs]
- Thinks Bob complained after 10 yr. Pat was listing 10 yr. as another incident.
- ~~oppose~~
- She's not aware of a written policy but Tim Delaney has said no discussions re mkt sensitive info.

- 4.
- Drew said he was meeting w/ Paul Malvey.
Jeff Hether of Treasury - he met w/
them before he met w/ her.
 - Drew does claim in the past to be plugged in.
 - London guy said someone had told them that they
heard C refund C 7:00am (Europe - kind time).
 - Lehman put out an

Exhibit B

- Paul Malvey - Director, Office of Market Finance
- 1st Interview: November 15, 2001
- in regular contact w/ financial markets / makes policy recommendations
- suspension of 30 yr bond had been discussed
 - would have preferred announcement in 1/02
 - no word to bond dealers re suspension of bond
- Drew Matus: Malvey ~~had~~ saw him in October; said nothing of suspension
↳ wk before 10/31, he predicted to Jill Ouseley that bond would be suspended
- Pete Davis: met him 3 times since '96
 - 1) call in '96 => got Davis admitted to quarterly funding mtg.
press conference w/ approval by Jill Ouseley (then Director)
 - 2) call @ 5/01 => approved Davis admittance to press conference
 - 3) 10/31 press conference w/ sat next to him
- did not know at the time that pres conf. reserved for "credentialed press"
- called Jill Ouseley => why was Davis admitted? she did not recall him
- Malvey's secretary, Linda Tyler, cleared ~~for~~ Davis for 10/31 press conf.
 - Davis had been calling her regularly for admittance
 - & - was she secretary to Ouseley? yes
 - Malvey understood that Davis had been attending since '96

114 Mike Nam, AIG

* → directives, e-mails, internal comms re alimony => Request from SEC

- Interview of Paul Malvey:

→ telephone calls: work, home, cell

- call in last 6/8 months ⇒ "he was fishing for something"

- may have been another call boiler

- 10/29: approved him for 10/31 mtg

- saw article re Crack Debt Management from ⇒ Davis news letter

- mentioned Malvey ⇒ said he was world class gather, so
someone who ever him must have spoken w/ Davis

→

* → article ⇒ SEC wants a copy of this ; Megan

→ Gensler ⇒ he trusted Duxy (after she had confronted him)

↳ this was in the newsletter

- There was anti-Gensler article

→ how did he see article? maybe Roger Anderson gave it to him

- RA knows him ^(count) too ⇒ maybe Roger was source of info for story

→ no other meetings did he see Davis; never saw Davis brief clients in

→ who does he know at N.Y. Financial Firms

J.P. Morgan: Tim Glassman

Fidelity: no
(Boston)

Goldman Sachs: Turpenson → know the Homeboy Cont., +
factory info
never met in D.C.

- John Young did → knows him

Sunbeam

? Tutor Investment → Chris Long
Nexus

Thomas Jelf

Pitman

Mellish

BDA

Stone & McCarthy → knows the principals!

→ McCarthy at Treasury once

→ January 2000 → Maley was

→ David bright in clients to discuss
TIPS, key banks

→ recalls Maley being at Treasury

was not
talked
to any
of them
re Davis

They say
they spoke
too someone
who says
this

→

Borrowing

Capa → Children of " Committee

= known since '94

- Nov. '95 ⇒ saw him at Heritage Foundation

- talked 2-3 times in 2001

→ Borrowing Advisory Comt: must keep involve confid. until released publicly

- have a statutory obligation

→ No one on Commttee calls for substantive info.

→ first spoke w/ him when considering change greatly ⇒ mid-Dec., 2001

- did not discuss Davis / have never discussed 10/31

→ recall Ward McCarty being at mtg. / maybe 1/2000 mtg.

- Lee Sachs was there

- does not recall what was discussed

- remembers people from outside the Treasury being there

→ Buckley Capital ⇒ last summer brought some folks to places in Clinton securities

- gave the example of mtg w/ outsiders

→ were there other such meetings year before?

- does not recall

→ hundred ⇒ 5/22/01 ⇒ Peter Davis e-mail

→ 5/01 ⇒ spoke w/ Davis; was looking for info

- ~~he~~ did not give him any information, did not direct him elsewhere

- did he speak w/ anyone else re rebate at the time

- Borrowing Advisory Commt ⇒ does not recall

→ would [redacted] have given this info at?

- does not remember date issue

→ does not recall anyone speaking w/ Davis at the time

2nd incident → e-mail 7/12

- did he speak w/ Davis on 7/12?

- could have been this date or the May date

- again, did not get information

- did not speak w/ Argentini w/ anyone else

- does not know anything w/ May issue

Davis e-mail → 9/6/01

→ did he speak w/ Davis at this time; did he discuss Rossboro

⇒ too close to last interview; does not recall Pector interview
↳ doesn't think so

→ doesn't know anyone that spoke w/ Davis w/ this

Davis e-mail → 10/16 *w/ TBS*

→ did he speak to Davis? → does not recall;

→ did not discuss w/ non-Treas.

→ does not know anyone that speaks w/ Davis

→ did not discuss this w/ anyone on committee

David e-mail 10/08

- does not recall ~~anyone~~ talking to Davis re this;
but he was talking to people abt this
 - = gave briefings to people on the Hill & how & what we want to do?
 - the info in the email is correct
 - this information was not being kept confidential
 - does not recall talking to Peter Davis abt this.

Bernardi + Anderson ⇒ only "two other T people that talked" to Davis's

- would have discussed the ^(our book) issue w/ Hill, may
one else that called

Relatives in Financial Industry:

Global
Fixed
Income
Strategy

- Jade Malouf at Lehman ⇒ had lunch 10 yrs ago
 - 2-3 yrs ago called him re govt debt
 - have not spoken since

^{no} recommendation w/ him in Oct./01

- did he ever ~~an~~ e-mail w/ him? no

three 4 times ⇒ 2 were casual b/c recently,
2 others went to him

- Davis called him twice on Nov 2.

left a message ⇒ "Call me, etc important"

- 1) sec. took message
- 2) did not answer

- Dick Teeter:
 - responsibility of central of
 - ↳ no rules, nothing for Treasury security
 - no written T. policy no resp. for people that clear into the building
 - White House does have a policy
 - ↳ Treasury will adopt new stand., probably use this as a model

→ Any request ⇒ put in writing
- fax it over / all the request

our recollection

- 1) → newsletter ⇒ we provided it before
- 2) → former ec ⇒ don't have site, or needs to give out info.
- 3) → to our knowledge, no written policy re admission of visitors

4/16 Phone call w/ Myers, Doylanty

- ⇒ No one comes into Treasury w/o appointment
- ⇒ NCIC check, Whales check, ~~PI~~^{P I} check => O'Neill
- ⇒ anyone else? P I check only
- ⇒ Musket => makes the call off excluding someone

2 requests

- ⇒ we will give them policy; want Musket to review it to make sure it is up to speed & correct

→ we can produce a list of those people
that had an appointment; ~~per~~ person
that made app; time of arrival;
time arrival, time departure
→ hard copy & CD Rom

Logs

Entry
Access

→ History of Davis' entry into Treasury
over the last few years?

Masterson
800 307-7309

- RF => will he attend other conferences;
who else will he meet with
- what constitutes a threat to the ~~the~~ SEC?
↳ judgment call

To do:

- send log. of 10/23/01
- what they have on Davis
- background: only put in writing
if feel comfortable

SEC investigation
→ Bill Baker => 942-4570

Observation:
→ surprised that IG report was
made public by T as soon as
it was; did not get to
review & comment before being
released → in the hands
of reporters almost as soon
as it was completed

1) Is anyone at Treasury implicated guilty / implicated
of anything more than slippiness?

Will not recommend to Com.
recommend to Com. - Won't recommend to ~~Com.~~ to charge Tee, even

that any
a & other be
taken by what
else → Other than Davis, did anyone else disseminate
this information in violation of the embargo?

→ Don't know of anyone else that they
can face truly to

→ Another press person has also violated embargo; but did
not leak
what are the Wall St. firms implicated? to trading
How serious are the charges?

- Goldman ~~Securities~~ &
- Mass. Financial Services } They were
} Davis clients, then
+ led to trading

2) Does the fact that Treasury mistakenly posted
the info on its web site mitigate / minimize
the use of the info.?

Yes/no; only looking at truly that
occurred pre-posting; post-posting, the
info is public

Exhibit C

Toone, Robert

From: Shope, John
Sent: Thursday, December 06, 2007 10:34 AM
To: 'Freeborne, Paul (CIV)'
Cc: Rossetti, John; 'Williams, Erica Y.'; Toone, Robert; Theodorou, Nicholas
Subject: Nothern v. Treasury

Dear Paul:

Counsel for the SEC (copied here) and I are trying to schedule the depositions permitted in the Nothern v. Treasury APA case. We have two questions:

1. Can you pdf to us today the additional documents to be disclosed under the FOIA case order earlier this week?
2. Will you be involved in scheduling or attending any of the depositions and, if not, with whom should we speak about scheduling? Tom McGivern?

Please let us know. Thanks very much.

Regards, John Shope

Toone, Robert

From: Freeborne, Paul (CIV) [Paul.Freeborne@usdoj.gov]
Sent: Thursday, December 06, 2007 10:36 AM
To: Shope, John
Cc: Rossetti, John; Williams, Erica Y.; Toone, Robert; Theodorou, Nicholas
Subject: RE: Nothern v. Treasury

I will be involved in the depositions. I'll try to get the documents together today.

Paul G. Freeborne
Trial Attorney
United States Department of Justice
Civil Division
Federal Programs Branch
20 Massachusetts Ave., N.W.
Room 6108
Washington, D.C. 20001
Tel. (202) 353-0543
Fax. (202) 616-8460

From: Shope, John [mailto:JJS@foleyhoag.com]
Sent: Thursday, December 06, 2007 10:34 AM
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Cc: Rossetti, John; Williams, Erica Y.; Toone, Robert; Theodorou, Nicholas
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Regards, John Shope

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document and its attachments was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify Foley Hoag LLP immediately -- by replying to this message or by sending an email to postmaster@foleyhoag.com -- and destroy all copies of this message and any

Toone, Robert

From: Freeborne, Paul (CIV) [Paul.Freeborne@usdoj.gov]
Sent: Thursday, December 06, 2007 10:45 AM
To: Shope, John
Cc: Rossetti, John; Williams, Erica Y.; Toone, Robert; Theodorou, Nicholas
Subject: RE: Nothern v. Treasury

I will be out of the office Christmas week. I'll see what the witness' schedules look like.

Paul G. Freeborne
Trial Attorney
United States Department of Justice
Civil Division
Federal Programs Branch
20 Massachusetts Ave., N.W.
Room 6108
Washington, D.C. 20001
Tel. (202) 353-0543
Fax. (202) 616-8460

From: Shope, John [mailto:JJS@foleyhoag.com]
Sent: Thursday, December 06, 2007 10:41 AM
To: Freeborne, Paul (CIV)
Cc: Rossetti, John; Williams, Erica Y.; Toone, Robert; Theodorou, Nicholas
Subject: RE: Nothern v. Treasury

Thanks very much. For scheduling purposes, I would like to get started with the depositions later this month, although hopefully we can avoid the period between the holidays. (That is not an issue for me, but it may be for others.) Since some of these will be very short, we should try to combine them. I suggest, for example, that we combine Davis, Berardi, and Bowser, who I believe all may still be at Treasury, in a single day. Please let us know about that as well.

Regards, John Shope

From: Freeborne, Paul (CIV) [mailto:Paul.Freeborne@usdoj.gov]
Sent: Thursday, December 06, 2007 10:36 AM
To: Shope, John
Cc: Rossetti, John; Williams, Erica Y.; Toone, Robert; Theodorou, Nicholas
Subject: RE: Nothern v. Treasury

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Washington, D.C. 20001
Tel. (202) 353-0543
Fax. (202) 616-8460

Toone, Robert

From: Toone, Robert
Sent: Monday, January 07, 2008 12:41 PM
To: 'paul.freeborne@usdoj.gov'
Cc: Shope, John
Subject: Nothern v. Treasury

Dear Paul:

Happy new year.

With respect to the deposition of the five Treasury employees at issue in the APA case, we have still not received any suggested dates from you. Because there is limited time in this matter, we are going to go ahead and issue notices and subpoenas for these witnesses. I'm assuming that as counsel for Treasury you will accept service of these notices and subpoenas; please advise me immediately if that is not the case.

Sincerely,

Robin Toone
Foley Hoag LLP
155 Seaport Blvd · Boston, MA 02210-2600
617-832-1242 (direct) · 617-832-7000 (fax)
rtoone@foleyhoag.com

Toone, Robert

From: Freeborne, Paul (CIV) [Paul.Freeborne@usdoj.gov]
Sent: Monday, January 07, 2008 12:55 PM
To: Toone, Robert
Cc: Shope, John
Subject: RE: Nothern v. Treasury

Robin,

Please hold off on issuing notices and subpoenas. I will see if I can get dates. I will also check on service for the current and former employees you seek to serve.

Paul G. Freeborne
Trial Attorney
United States Department of Justice
Civil Division
Federal Programs Branch
20 Massachusetts Ave., N.W.
Room 6108
Washington, D.C. 20001
Tel. (202) 353-0543
Fax. (202) 616-8460

From: Toone, Robert [mailto:RToone@foleyhoag.com]
Sent: Monday, January 07, 2008 12:41 PM
To: Freeborne, Paul (CIV)
Cc: Shope, John
Subject: Nothern v. Treasury

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Toone, Robert

From: Freeborne, Paul (CIV) [Paul.Freeborne@usdoj.gov]
Sent: Tuesday, January 08, 2008 10:24 AM
To: Toone, Robert
Cc: Shope, John
Subject: RE: Nothern v. Treasury

Robin,

Davis, Berardi, and Bowser are available for deposition in D.C. February 8th, 11th, 12th, or the 13th. I can accept service on their behalf.

Cetina is no longer with Treasury. Treasury counsel is reaching out to her to determine availability and to determine whether I can accept service.

Aufhauser is represented by Joe Warin of Gibson Dunn. E-mail for Joe is fwarin@gibsondunn.com. I would contact Joe directly.

Paul G. Freeborne
Trial Attorney
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Toone, Robert

From: Toone, Robert
Sent: Tuesday, January 08, 2008 12:15 PM
To: 'Freeborne, Paul (CIV)'
Cc: Shope, John; Theodorou, Nicholas
Subject: RE: Nothern v. Treasury

Thanks, Paul. We will check the SEC's availability on those dates.

With respect to Ms. Cetina, it's our understanding that she lives in Alexandria. We would like to depose her in D.C. during the week of February 4-8. Please let us know if you have any conflicts during that week; we will also check with the SEC.

--Robin

From: Freeborne, Paul (CIV) [mailto:Paul.Freeborne@usdoj.gov]
Sent: Tuesday, January 08, 2008 10:24 AM
To: Toone, Robert
Cc: Shope, John
Subject: RE: Nothern v. Treasury

Robin,

Davis, Berardi, and Bowser are available for deposition in D.C. February 8th, 11th, 12th, or the 13th. I can accept service on their behalf.

Cetina is no longer with Treasury. Treasury counsel is reaching out to her to determine availability and to determine whether I can accept service.

Aufhauser is represented by Joe Warin of Gibson Dunn. E-mail for Joe is fwarin@gibsondunn.com. I would contact Joe directly.

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Sent: Monday, January 07, 2008 12:41 PM
To: Freeborne, Paul (CIV)
Cc: Shope, John
Subject: Nothern v. Treasury

Dear Paul:

Happy new year.

3/12/2008

Toone, Robert

From: Freeborne, Paul (CIV) [Paul.Freeborne@usdoj.gov]
Sent: Friday, January 11, 2008 10:10 AM
To: Toone, Robert
Cc: Timothy.Kollar@do.treas.gov; Tom.McGivern@do.treas.gov
Subject: RE: Nothern v. Treasury

Robin,

Ms. Cetina is available on the 8th. Please let me know the dates for all depositions. Please cc: Tim and Tom. Thanks.

Paul G. Freeborne
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United States Department of Justice
Civil Division
Federal Programs Branch
20 Massachusetts Ave., N.W.
Room 6108
Washington, D.C. 20001
Tel. (202) 353-0543
Fax. (202) 616-8460

From: Toone, Robert [mailto:RToone@foleyhoag.com]
Sent: Tuesday, January 08, 2008 3:23 PM
To: Freeborne, Paul (CIV)
Cc: Theodorou, Nicholas; Shope, John
Subject: FW: Nothern v. Treasury

Paul:

With respect to Ms. Cetina's deposition, the SEC informs us that they are available on February 7 or 8, but not February 4-6.

The SEC is also available to participate in the Davis, Berardi, and Bowser depositions on February 11-13. We will set up a schedule for these depositions and notify you shortly.

--Robin

From: Toone, Robert
Sent: Tuesday, January 08, 2008 12:15 PM
To: 'Freeborne, Paul (CIV)'
Cc: Shope, John; Theodorou, Nicholas
Subject: RE: Nothern v. Treasury

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From: Toone, Robert
Sent: Friday, January 11, 2008 4:44 PM
To: 'Freeborne, Paul (CIV)'
Cc: 'Timothy.Kollar@do.treas.gov'; 'Tom.McGivern@do.treas.gov'; 'Williams, Erica Y.'; 'Rossetti, John'; Theodorou, Nicholas; Shope, John
Subject: RE: Nothern v. Treasury

Thanks, Paul.

Here is our proposed schedule. All depositions will take place at our D.C. office, 1875 K Street, Suite 800. I'm cc'ing Erica Williams and John Rossetti at the SEC also.

Jill Cetina	Friday, Feb. 8, 10:00 a.m.
Michele Davis	Monday, Feb. 11, 1:00 p.m.
Elnora Bowser	Tuesday, Feb. 12, 10:00 a.m.
Steve Berardi	Tuesday, Feb. 12, 1:00 p.m.

Have a good weekend,

Robin Toone
Foley Hoag LLP
155 Seaport Blvd · Boston, MA 02210-2600
617-832-1242 (direct) · 617-832-7000 (fax)
rtoone@foleyhoag.com

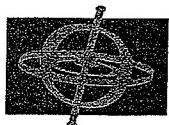
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Sent: Friday, January 11, 2008 10:10 AM
To: Toone, Robert
Cc: Timothy.Kollar@do.treas.gov; Tom.McGivern@do.treas.gov
Subject: RE: Nothern v. Treasury

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Washington, D.C. 20001
Tel. (202) 353-0543
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Exhibit D



**FOLEY
HOAG LLP**
ATTORNEYS AT LAW

February 25, 2008

John A. Shope
Partner
Boston Office
617.832.1233
jshope@foleyhoag.com

BY E-MAIL AND FIRST-CLASS MAIL

Erica Y. Williams, Esquire
Securities and Exchange Commission
100 F Street, N.E., Mail Stop 4010
Washington, D.C. 20549-4010

Re: *United States Securities and Exchange Commission v. Nothern,
Civil Action No. 05-10983 (NMG) (D. Mass.)*

Dear Erica:

As you know, we contend that a critical issue in this case is the extent to which the Treasury Department adequately protected the confidentiality of its information on the 30-year bond prior to its purported 10:00 a.m. embargo. As the Second Circuit has observed, the availability of information through such sources as "trade publications, analysts' reports, newspapers, magazines, rumors, word of mouth or other sources" is relevant to whether it is "nonpublic" at a particular time. *United States v. Cusimano*, 123 F.3d 83, 89 n.6 (2d Cir. 1997). Furthermore, even if the information were non-public, the existence of the reports and rumors — which Mr. Nothern has testified were reported to him — bears on the reasonableness of Mr. Nothern's belief that the single mention of the words "news embargo" did not put him on notice of any fiduciary or similar duty on the part of Mr. Davis not to report the Treasury's decision to suspend issuance of the 30 year bond. Significant evidence that bears on both of these points, however, was not obtained until the most recent document productions by the Treasury Department and depositions of Treasury personnel ordered by Judge Gorton under the Freedom of Information and Administrative Procedure Acts in our collateral litigation against Treasury.

To avoid the need for additional or reopened depositions and to ensure that there is no dispute regarding the jury's ability to consider evidence bearing on this question, we are asking the SEC to stipulate to the admissibility of the following items:

1. The eleven pages of e-mails attached as Exhibit 10 to the January 2002 report of the Office of Inspector General. According to that report, in this exhibit "Cetina memorialized information she received on October 31, relating to the 30-year

Erica Y. Williams, Esquire
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Page 2

bond announcement, in a series of e-mail messages sent to her Treasury Department superiors.”

In addition, at her deposition from earlier this month (pp. 94-96), Ms. Cetina testified that the cut-and-paste e-mail set forth on the fourth, fifth, and sixth pages of this Exhibit – beginning “Jill, We definitely heard rumors as early as 9am . . .” – was sent to her by either Robert Sbarra from HSBC or Patrick Haskel from Credit Suisse First Boston. Ms. Cetina further testified (pp. 103-05) that Derrick Kehoe from HSBC was the “dealer in London” referred to the fifth page of this Exhibit and that he heard a “rumor that the long bond would be eliminated yesterday from a European central bank.”

We ask that you stipulate to the authenticity and admissibility of OIG Report Exhibit 10 and all information contained therein. We also ask that you stipulate to the admissibility of Ms. Cetina’s testimony referenced above.

We also ask that you stipulate to the admissibility of the following excerpts from Ms. Cetina’s testimony:

- page 34, line 19 -- page 36, line 13
- page 44, line 2 -- page 45, line 16
- page 46, line 17 -- page 48, line 3
- page 49, line 10 -- page 51, line 4
- page 51, line 16 -- page 53, line 11
- page 68, line 14 -- page 69, line 15
- page 82, line 10 -- page 84, line 13
- page 89, line 3 -- page 97, line 11
- page 102, line 9 -- page 106, line 6
- page 131, line 6 -- page 132, line 18

Please note that we may seek admission of other portions of Ms. Cetina’s testimony as well.

2. The November 5, 2001 e-mail from Tony Fratto to Megan Hills, identified as FOIAKBC 630 by Treasury in its FOIA production, stating that “long before the highly professional and competent Bush Administration Treasury appointees arrived on the scene, this place leaked like a sieve; and that we wouldn’t be talking if our predecessors hadn’t been letting jokers like Pete Davis into refunding announcements for the past eight years.” Even though this e-mail is obviously relevant to the case, Treasury initially redacted it, then disclosed it more than five months after our deposition of Mr. Fratto. We ask that you stipulate to the authenticity and admissibility of FOIAKBC 630 and all information contained therein.

Erica Y. Williams, Esquire
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Page 3

3. The October 31, 2001 e-mail exchange between Timothy Bitsberger and Tony Fratto, identified as FOIAKBC 651 by Treasury. In this exchange, Bitsberger (a high-level official in Treasury's Office of Domestic Finance) revealed that (i) Treasury's "refunding process has been criticized for years because of suspected leaks," and (ii) there had been a leak "attributed to the borrowing committee" in connection with the emergency reopening of the 10-year note on October 4, 2001. Judge Gorton ordered the disclosure of the cited portions of this e-mail in his December 4, 2007 order in our pending FOIA suit against Treasury – more than a year after the Fratto deposition and the previous fact discovery deadline. We ask that you stipulate to the authenticity and admissibility of FOIAKBC 651 and all information contained therein.

4. Finally, we ask that you stipulate to the authenticity of the following documents set forth in your production:

- SECNOTH00007555
- SECNOTH00007577
- SECNOTH00094043
- SECNOTH00094044
- SECNOTH00094037
- SECNOTH00094108
- SECNOTH00094110
- SECNOTH00094358
- SECNOTH00097766
- SECNOTH00119838
- SECNOTH00119991
- SECNOTH00121007
- SECNOTH00124489
- SECNOTH00132152

Again, we may wish to introduce other items from your production, but are seeking your stipulation now in relation to avoiding further discovery.

Please let me know if you will agree to these proposed stipulations by Thursday, February 28, 2008. I look forward to hearing from you.

Sincerely,



John A. Shope

cc: John J. Rossetti Jr., Esquire
Nicholas C. Theodorou, Esquire
Robert E. Toone, Esquire

Exhibit E

FEB-28-2008 18:21

SEC



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F STREET, N.E.
WASHINGTON, D.C. 20549-4010

DIVISION OF
ENFORCEMENT

Erica Y. Williams
Assistant Chief Litigation Counsel
Telephone: (202) 551-4450
Facsimile: (202) 772-9245
Williamse@sec.gov

February 28, 2008

By Facsimile and First Class Mail

John Shope, Esq.
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Blvd.
Boston, MA 02210

Re: *Securities and Exchange Commission v. Steven E. Nothern*, Case No. 05-10983
(NMG)

Dear John:

I am writing in response to your letter that I received on the evening of February 25, 2008. In your letter you request that the SEC stipulate to the authenticity and admissibility of certain documents and testimony, including documents that the SEC did not create or produce that contain objectionable and unreliable hearsay evidence, and testimony from a witness, Jill Cetina, who admitted under oath that she had no personal knowledge about the matters that are the subject of the testimony you are seeking to admit.

As an initial matter, your request that the SEC stipulate to the authenticity and admissibility of certain documents and testimony prior to the end of fact discovery, before the parties exchange expert disclosures and conduct expert discovery, and before the filing of dispositive motions is premature. Under Rule 26(a)(3) of the Federal Rules of Civil Procedure and Local Rule 16.5, the parties are to exchange pretrial disclosures, (i.e., witness lists, exhibit lists and deposition designations) no later than 30 days before the date of the final pretrial conference, and are to confer no later than 15 days before the final pretrial conference about any objections to the use of evidence identified in the pretrial disclosures. The rules do not require the SEC to unilaterally stipulate to the admissibility of a subset of documents and deposition designations seven months prior to the pretrial conference and before discovery is complete.

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You claim that you are requesting that the SEC enter into these premature stipulations because they are necessary “[t]o avoid the need for additional or reopened depositions.” This claim is far fetched. As you are aware, the SEC filed this action on May , 2005. During the course of fact discovery, which began in September 2006, the defense has deposed a total of 18 witnesses, including 15 current or former Treasury employees. At these depositions, you explored every topic that could possibly be relevant to the trial of this matter, including the existence of reports or rumors about the elimination of the 30-year bond. Contrary to your assertions, the documents and testimony Nothern received in his collateral action against Treasury did not disclose any new topic areas, or identify any new witnesses that would justify any further depositions or an extension of the February 29, 2008 fact discovery deadline.

You have had the benefit of Treasury’s FOIA production since at least December 4, 2007. Indeed, the large majority of the production was provided to you in March 2007. If you desired to take any additional depositions, you had plenty of time to raise that issue with the SEC and the Court before now. With full knowledge of the information contained in Treasury’s subsequent document production, you proposed a fact discovery deadline of February 29, 2008 and then waited until days before the deadline to assert an alleged “need” for additional discovery. The SEC will oppose any effort on Nothern’s part to further protract this litigation and delay the trial of this matter by conducting any additional fact witness depositions.

Additionally, the SEC disagrees with your claim that information about the existence of reports or rumors regarding the elimination of the 30-year bond somehow provide a defense for Nothern’s trading in the 30-year bond based on the tip that he received from Peter Davis. The case you cite in your letter, *U.S. v. Cusimano*, 123 F.3d 83, 89 (2d. Cir. 1997) makes clear that a “tip from a corporate insider which is more reliable or specific than public rumors is non-public despite the existence of such rumors.” (citing *SEC v. Mayhew*, 121 F.3d 44, 49-50 (2d Cir. 1997)). In fact, many of the rumors contained in the documents and testimony identified in your February 25 letter appear to have been circulated after Nothern placed his order to trade in the 30-year bond. Furthermore, there is no evidence that any of the alleged rumors referenced in the documents and testimony identified in your letter ever reached Nothern.

Although your request for stipulations is unwarranted, in the interest of cooperation, I have explained below which stipulations the SEC will and will not enter into at this time. However, because of the premature nature of your request, the SEC reserves the right to revise or amend the following authenticity or admissibility stipulations until the parties finalize and submit their joint pretrial memorandum to the Court.

The SEC submits the following initial responses to the stipulation requests raised in your February 25, 2008 letter:

1. The SEC stipulates to the authenticity of Exhibit 10 to the January 2002 report of the Treasury’s Office of Inspector General.

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The SEC stipulates to the admissibility of the October 31, 2001, 9:55 a.m email from Jill Cetina to various Treasury employees, Subject: Looks like Reuters out a bit early with this . . . it was rumored before the headlines. (SECNOTH00103627). The SEC does not stipulate to the admissibility of any other documents contained in Treasury OIG Report, Exhibit 10.

The SEC does not stipulate to the admissibility of any of the deposition excerpts of Jill Cetina's testimony contained on page 2 of your February 25, 2008 letter and reserves the right to raise additional objections to the admissibility of that testimony, and any other testimony that you may wish to designate from that deposition. The deposition excerpts that you seek to admit from Ms. Cetina are objectionable for a variety of reasons, including, but not limited to, the fact that they contain irrelevant, speculative, hearsay testimony. The excerpts are also objectionable because Ms. Cetina admitted that she had no personal knowledge on many of the matters that were the subject of her testimony.¹

In your February 25 letter, you contend that new evidence bearing on the existence of rumors regarding the cancellation of the 30-year bond was only recently discovered in recent depositions, including the deposition of Ms. Cetina. The fact is that you have had documents in your possession for nearly a year that identified the rumors that Ms. Cetina claims were relayed to her on October 31, 2001 through second-hand accounts after Treasury's refunding announcement had been made public, and the sources of those rumors. See FOIAKBC 400, 401, 437, 872, Treasury OIG Report Exhibit 10. Ms. Cetina's deposition did not uncover any new information or identify any new witnesses that would warrant further fact witness depositions in this case.

2. The SEC stipulates to the authenticity of the November 5, 2001 email from Tony Fratto to Megan Hills, FOIAKBC 630.

¹ See Cetina dep. at 156:14-157:17, 167:16-168:19, 170:20-171:17, 197:21-198:20, 206:17-207:15, 209:1-212:5, 215:6-16, 258:1-20 (Ms. Cetina admits, *inter alia*, that she has: (1) no personal knowledge about anyone at Treasury leaking any information concerning the elimination of the 30-year bond prior to the October 31, 2001, (2) no personal knowledge about whether Lehman Brothers traded in the 30-year bond, (3) no personal knowldge about whether the 30-year bond traded special on the repo market on October 30, 2001, (4) no personal knowledge about why Paul Malvey retired from Treasury, (5) no personal knowledge about whether Mr. Malvey ever communicated with any relatives that worked at Lehman Brothers, (6) no personal knowledge of any rumors or complaints regarding Treasury's re-opening of the 10-year note in October 2001, (7) no personal knowledge about any rumors circulating in the market on October 31, 2001 prior to the public announcement about the cancellation of the 30-year bond through either Treasury's website or over the news wires).

John Shope, Esq.
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The SEC does not stipulate to the admissibility of FOIAKBC 630, which contains information that is irrelevant and prejudicial. The SEC also reserves the right to raise additional objections to the admissibility of this document.

You received the unredacted version of FOIAKBC 630 nearly a year ago and have used it to question numerous witnesses, including Mr. Fratto's former supervisor, Michelle Davis. During Mr. Fratto's deposition, you examined him extensively on his knowledge regarding the history of individuals gaining access to Treasury refunding conferences. While the SEC believes this email and its contents are wholly irrelevant to any issues in this insider trading case against Mr. Nothern, and that the email should be excluded from trial, the record shows that you had the opportunity to fully explore the irrelevant statements contained in the email with Mr. Fratto and other witnesses. No further discovery on this email or its contents is needed.

3. The SEC stipulates to the authenticity of the October 31, 2001 email exchange between Timothy Bitsberger and Tony Fratto, FOIAKBC 651.

The SEC does not stipulate to the admissibility of FOIAKBC 651 and reserves the right to raise additional objections to its admissibility. FOIAKBC 651 contains information concerning alleged leaks by Treasury that preceded the announcement of the cancellation of the 30-year bond. This historical information is prejudicial and is not relevant to any claims or valid defenses in this case. Even if the information contained in this document were relevant – which it is not – you already examined Mr. Fratto and numerous other witnesses about suspected leaks resulting from Treasury announcements that occurred before the announcement at issue in this case, including alleged leaks related to the reopening of the 10-year note, and supposed criticisms of the Treasury refunding process. Additionally, you have known about the existence of this email for nearly three months. Nothing in this email supports a request to allow you to take additional fact witness depositions or justifies your delay in seeking additional fact discovery.

4. The SEC stipulates to the authenticity of the following documents:

SECNOTH00007555
SECNOTH00007577
SECNOTH00094043
SECNOTH00094044
SECNOTH00094018
SECNOTH00094110
SECNOTH00094358
SECNOTH00119838
SECNOTH00119991
SECNOTH00121007
SECNOTH00124489
SECNOTH00132152

John Shope, Esq.

February 28, 2008

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The SEC does not stipulate to the authenticity of the following documents:

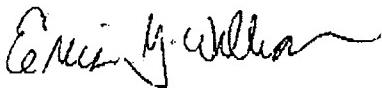
SECNOTH00094037
SECNOTH00097766

The SEC does not stipulate to the admissibility of the following documents and reserves the right to make additional objections to the admissibility of these documents:

SECNOTH00007555
SECNOTH00007577
SECNOTH00094043
SECNOTH00094044
SECNOTH00094037
SECNOTH00094018
SECNOTH00094110
SECNOTH00094358
SECNOTH00119838
SECNOTH00119991
SECNOTH00097766
SECNOTH00121007
SECNOTH00124489
SECNOTH00132152

Should you have any questions about the information contained above, please do not hesitate to call. Also, please note that I will be out of the country March 1 – 8, 2008 and will have limited access to telephone and email. During that time please copy my colleagues Sarah Levine and John Rossetti on any correspondence that you send to me and direct your telephone calls to them. Thank you for your cooperation.

Sincerely,



Erica Y. Williams

cc: Nicholas Theodorou, Esq.
Robert Toone, Esq.
Sarah Levine, Esq.
John J. Rossetti, Jr., Esq.

Exhibit F

Kerner, Francine

From: Sharer, James
Sent: Wednesday, October 31, 2001 3:17 PM
To: Kerner, Francine; Bieger, Peter
Subject: FW: Looks like Reuters out a bit early with this... it was rumored before the headlines.

-----Original Message-----

From: Cétina, Jill
Sent: Wednesday, October 31, 2001 9:55 AM
To: Roseboro, Brian; Bitsberger, Timothy; Malvey, Paul; Gross, Jared
Cc: Byrne, Kathleen; Corfield, Anna; Dulaney, Tim; Quinn, Lois; Sharer, James
Subject: Looks like Reuters out a bit early with this... it was rumored before the headlines.

09:57 31Oct2001 US TREASURY SAYS DISCONTINUING SALES OF REGULAR, INDEXED 30-YEAR BONDS
 09:57 31Oct2001 US TREASURY SAYS BOND ISSUANCE DISCONTINUATION EFFECTIVE IMMEDIATELY
 09:57 31Oct2001 TREASURY'S FISHER-DEBT BUYBACK PROGRAM ON A 'QUARTER-TO-QUARTER' BASIS
 09:57 31Oct2001 TREASURY'S FISHER-BUYBACK TARGETS, IF ANY, TO BE ANNOUNCED AT REFUNDINGS
 09:57 31Oct2001 TREASURY'S FISHER-GOVERNMENT BORROWING NEEDS 'ELEVATED FOR NEXT YEAR OR SO'
 09:57 31Oct2001 TREASURY'S FISHER ANTICIPATES BUDGET GAP IN 2002, 'PERHAPS' IN 2003 AS WELL
 09:57 31Oct2001 TREASURY'S FISHER EXPECTS RETURN TO BUDGET SURPLUSES IN COMING YEARS
 09:57 31Oct2001 TREASURY'S FISHER-'WE DO NOT NEED' 30-YEAR BOND TO MEET GOVT FINANCE NEEDS
 09:57 31Oct2001 TREASURY FISHER--30-YEAR BOND NO LONGER HAS POSITION OF SIGNIFICANCE IN MARKETS
 09:57 31Oct2001 TREASURY'S FISHER- 'COSTLESS' TO REINTRODUCE 30-YEAR BOND IN FUTURE, IF NEEDED
 09:57 31Oct2001 TREASURY'S FISHER-BUYBACK DECISIONS TO BE MADE IN LIGHT OF FISCAL PROJECTIONS
 09:57 31Oct2001 TREASURY SAYS TO REPURCHASE \$9 BLN IN DEBT IN Q4, IN LINE WITH ORIGINAL GOAL

For Related News, Double Click on one of these codes:

[M] [T] [NAT] [D] [E] [U] [MNI] [US] [WASH] [DBT] [GVD] [ISU] [INT] [MUNI]

[LEN] [RTRS]

[NEWSYEAR 2000]

ENDS

*Jill Cetina,
 International Economist
 Market Room
 U.S. Treasury Department
 202-622-2017*

Kerner, Francine

From: Sharer, James
Sent: Wednesday, October 31, 2001 3:18 PM
To: Kerner, Francine; Bieger, Peter
Subject: FW: Today's announcement

-----Original Message-----

From: Cetina, Jill
Sent: Wednesday, October 31, 2001 10:06 AM
To: Cetina, Jill; Roseboro, Brian; Bitsberger, Timothy; Malvey, Paul; Gross, Jared
Cc: Byrne, Kathleen; Corfield, Anna; Dulaney, Tim; Quinn, Lois; Sharer, James
Subject: Today's announcement

Just had a Treasury market contact call in to complain about how this was released... he claims it was posted on Treasury's website before 10 a.m. so some firms knew about it before it hit the wires.

[Cetina, Jill] -----Original Message-----

From: Cetina, Jill
Sent: Wednesday, October 31, 2001 9:55 AM
To: Roseboro, Brian; Bitsberger, Timothy; Malvey, Paul; Gross, Jared
Cc: Byrne, Kathleen; Corfield, Anna; Dulaney, Tim; Quinn, Lois; Sharer, James
Subject: Looks like Reuters out a bit early with this... it was rumored before the headlines.

09:57 31Oct2001 US TREASURY SAYS DISCONTINUING SALES OF REGULAR, INDEXED 30-YEAR BONDS
09:57 31Oct2001 US TREASURY SAYS BOND ISSUANCE DISCONTINUATION EFFECTIVE IMMEDIATELY
09:57 31Oct2001 TREASURY'S FISHER-DEBT BUYBACK PROGRAM ON A 'QUARTER-TO-QUARTER' BASIS
09:57 31Oct2001 TREASURY'S FISHER-BUYBACK TARGETS, IF ANY, TO BE ANNOUNCED AT REFUNDINGS
09:57 31Oct2001 TREASURY'S FISHER-GOVERNMENT BORROWING NEEDS 'ELEVATED FOR NEXT YEAR OR SO'
09:57 31Oct2001 TREASURY'S FISHER ANTICIPATES BUDGET GAP IN 2002, 'PERHAPS' IN 2003 AS WELL
09:57 31Oct2001 TREASURY'S FISHER EXPECTS RETURN TO BUDGET SURPLUSES IN COMING YEARS
09:57 31Oct2001 TREASURY'S FISHER-'WE DO NOT NEED' 30-YEAR BOND TO MEET GOVT FINANCE NEEDS
09:57 31Oct2001 TREASURY FISHER--30-YEAR BOND NO LONGER HAS POSITION OF SIGNIFICANCE IN MARKETS
09:57 31Oct2001 TREASURY'S FISHER- 'COSTLESS' TO REINTRODUCE 30-YEAR BOND IN FUTURE, IF NEEDED
09:57 31Oct2001 TREASURY'S FISHER-BUYBACK DECISIONS TO BE MADE IN LIGHT OF FISCAL PROJECTIONS
09:57 31Oct2001 TREASURY SAYS TO REPURCHASE \$9 BLN IN DEBT IN Q4, IN LINE WITH ORIGINAL GOAL

For Related News, Double Click on one of these codes:

[M] [T] [NAT] [D] [E] [U] [MNI] [US] [WASH] [DBT] [GVD] [ISU] [INT]
[MUNI] [LEN] [RTRS]
[NEWSYEAR 2000]

ENDS

*Jill Cetina,
International Economist
Market Room
U.S. Treasury Department
202-622-2017*

Kerner, Francine

From: Sharer, James
Sent: Wednesday, October 31, 2001 3:18 PM
To: Kerner, Francine; Bieger, Peter
Subject: FW: Some thoughts on e-mail from a primary dealer contact

-----Original Message-----

From: [REDACTED] Cetina, Jill
Sent: Wednesday, October 31, 2001 10:45 AM
To: Roseboro, Brian; Bitsberger, Timothy; Gross, Jared; Malvey, Paul
Cc: Byrne, Kathleen; Corfield, Anna; Dulaney, Tim; Quinn, Lois; Sharer, James
Subject: Some thoughts on e-mail from a primary dealer contact

Jill

We definitely heard rumors as early as 9am which were flattening 5s/30s prior to the official news...Someone told me they actually saw it on your website at 9:50am

For the content of it, many here do NOT believe that the deficits are temporary. While agreed that reintroducing 30yrs would be costless, much is being made of the Fed's desire to see lower long-term

rates as a key ingredient here. My main concern is the impact on 5yr and 10yr rates of more supply.

Kerner, Francine

From: Sharer, James
Sent: Wednesday, October 31, 2001 3:19 PM
To: Kerner, Francine; Bieger, Peter
Subject: FW: Some thoughts on e-mail from a primary dealer contact

-----Original Message-----

From:

Cetina, Jill

Sent: Wednesday, October 31, 2001 11:40 AM
To: Cetina, Jill; Roseboro, Brian; Bitsberger, Timothy; Gross, Jared; Malvey, Paul
Cc: Byrne, Kathleen; Corfield, Anna; Dulaney, Tim; Quinn, Lois; Sharer, James
Subject: RE: Some thoughts on e-mail from a primary dealer contact

Had a different primary dealer tell me that they received a call from John Jacobs from IDEA yesterday about a rumor that Treasury would eliminate the long bond. The same dealer reports that the long bond was trading special on repo yesterday.

A third dealer in London said he heard rumor that the long bond would be eliminated yesterday from a European central bank.

-----Original Message-----

From:

Cetina, Jill

Sent: Wednesday, October 31, 2001 10:45 AM
To: Roseboro, Brian; Bitsberger, Timothy; Gross, Jared; Malvey, Paul
Cc: Byrne, Kathleen; Corfield, Anna; Dulaney, Tim; Quinn, Lois; Sharer, James
Subject: Some thoughts on e-mail from a primary dealer contact

Jill

We definitely heard rumors as early as 9am which were flattening 5s/30s prior to the official news...Someone told me they actually saw it on your website at 9:50am

For the content of it, many here do NOT believe that the deficits are temporary. While agreed that reintroducing 30yrs would be costless, much is being made of the Fed's desire to see lower long-term

rates as a key ingredient here. My main concern is the impact on 5yr and 10yr rates of more supply.

Kerner, Francine

From: Sharer, James
Sent: Wednesday, October 31, 2001 3:19 PM
To: Kerner, Francine; Bieger, Peter
Subject: FW: Some thoughts on e-mail from a primary dealer contact
Importance: High

---Original Message---

From: Dulaney, Tim

Sent: Wednesday, October 31, 2001 11:43 AM
To: Cetina, Jill; Roseboro, Brian; Bitsberger, Timothy; Gross, Jared; Malvey, Paul
Cc: Byrne, Kathleen; Corfield, Anna; Quinn, Lois; Sharer, James
Subject: RE: Some thoughts on e-mail from a primary dealer contact
Importance: High

Thanks, Jill. One market contact who is pretty knowledgeable about this stuff was struck by the view that Treasury was trying to move the curve and attributed it mainly to a WSJ report that suggested this.

On another point, I just got my bleep chewed by an angry market participant who said she could not find the Fisher remarks on the Treasury web site. Can anyone point me in the right direction so I can pass it along to her? Thanks.

---Original Message---

From: Cetina, Jill

Sent: Wednesday, October 31, 2001 10:45 AM
To: Roseboro, Brian; Bitsberger, Timothy; Gross, Jared; Malvey, Paul
Cc: Byrne, Kathleen; Corfield, Anna; Dulaney, Tim; Quinn, Lois; Sharer, James
Subject: Some thoughts on e-mail from a primary dealer contact

Jill

We definitely heard rumors as early as 9am which were flattening 5s/30s prior to the official news...Someone told me they actually saw it on your website at 9:50am

For the content of it, many here do NOT believe that the deficits are temporary. While agreed that reintroducing 30yrs would be costless, much is being made of the Fed's desire to see lower long-term

rates as a key ingredient here. My main concern is the impact on 5yr and 10yr rates of more supply.

Kerner, Francine

From: Sharer, James
Sent: Wednesday, October 31, 2001 3:19 PM
To: Kerner, Francine; Bieger, Peter
Subject: FW: Oct 31 Noon Report -- A morning of surprises.. better-than-expected data but the curve flattens

-----Original Message-----

From: Cetina, Jill
Sent: Wednesday, October 31, 2001 1:02 PM
To: _DL_Market Group; Andrew Sacher; ClayLowery; Eric Otto; Griffiths; Hoffman; MegLundsager; Paul Reid; PMalmgren; Wayne
Subject: Oct 31 Noon Report -- A morning of surprises.. better-than-expected data but the curve flattens

A morning of surprises -- preliminary Q3 GDP and Chicago PMI better-than-expected; Treasury eliminates the long bond; buybacks as needed going forward U.S. Markets

Treasuries: Today's advance Q3 GDP data came in somewhat better-than-expected, contracting 0.4% q/q. At 10 a.m. Treasury announced it would eliminate issuance of 30-year nominal and inflation adjusted bonds and that while buybacks would continue for this year future buybacks would be announced quarterly. The decision caught participants off-guard. The bond rallied with the yield falling 29 bps to 4.92% in heavy trading. TIPS also rallied.

However, dealer contacts complained news of the bond's elimination had been leaked -- citing early morning rumors, tightness of the bond in the repo market yesterday, buying of cash and futures ahead of the official release as well as an early posting of the news on Treasury's website. A few dealers noted rumors had also circulated that Treasury would resume monthly 5-year auctions which was not announced today. Some dealers questioned whether the Administration was trying to flatten the Treasury curve to pass on lower rates to corporates and homeowners to stimulate the economy. Short-dated Treasuries underperformed, as accounts reallocated and bought bonds and on strength in U.S. equities. Anecdotally, some participants noted today's data coupled with lower rates at the back-end increased the likelihood the FOMC would cut by 25 bps next Tuesday, not 50 bps. The 2-10 year and 2-30-year curves are 11 and 23 bps flatter relative to this morning. Canadian long bonds benefitted, with the yield falling 16 bp (JCetina 2-2017)

U.S. equities were mostly higher in active trading, in reaction to today's data. News Treasury was halting sales of long bonds also boosted stocks. Enron rose 14.2% to \$12.75 on talk of a takeover by GE Capital, Berkshire Hathaway or Royal Dutch Petroleum. (JSharer 2-2042)

Global Markets

Fx: The dollar gained following the data, and was also bolstered by strength in equities and Treasury's news about the bond and is currently about 0.5% firmer against most major currencies. This morning's move has pushed the euro and yen to near technically significant levels at \$0.90 and Y122.50, if these levels are broken, further dollar buying

could be triggered. (JCetina 2-2017)

Europe: European bourses closed flat to 2.1% higher, with the CAC-40 outperforming as a number of firms announced cost-cutting moves and U.S. equities gained. German bund yields were up 2 to down 9 bps, with 30-year bonds outperforming. U.K. gilt yields fell 1 to 6 bps on slumping consumer confidence and expectations for another BOE rate cut. (JSharer 2-2042)

Latin America: Dealers noted this morning continued interest by a large Spanish bank to buy Argentine bonds earlier this morning, triggering further buying by others to cover short positions. However, later in the morning contacts noted rumors Argentina has moved its reserves to the BIS (interpreted as a move to protect Argentine assets from creditors in the event of a default) which has weighed somewhat on Argentine debt. The Argentine 08' bond is currently down 2 points. (JCetina 2-2017)

Today's Events: Period	Actual Consensus Expectation	Previous
US Q3 GDP, advance q/q	-0.4% q/q -1.0 q/q —	0.3%
US Q3 GDP deflator 2.1%	2.1%	
Treasury Quarterly Refunding	1.6%	
Chicago PMI 46.6	10 a.m. 46.2 44.0	

In addition to the PDF version of the report; please find text from today's Quarterly Refunding.

A morning of surprises—preliminary Q3 GDP and Chicago PMI better-than-expected; Treasury eliminates the long bond; buybacks as needed going forward

10/31/01 1:01 PM

U.S. Markets Treasuries: Today's advance Q3 GDP data came in somewhat better-than-expected, contracting 0.4% q/q. At 10 a.m. Treasury announced it would eliminate issuance of 30-year nominal and inflation-adjusted bonds and that while buybacks would continue for this year future buybacks would be announced quarterly. The decision caught participants off guard. The bond rallied with the yield falling 29 bps to 4.92% in heavy trading. TIPS also rallied. However, dealer contacts complained new info of the bond's elimination had been leaked—citing early morning rumors, tightness of the bond in the repo market yesterday, buying of cash and futures ahead of the official release as well as an early posting of the news on Treasury's website. A few dealers noted rumor had also circulated that Treasury would resume monthly 5-year auctions which was not announced today. Some dealers questioned whether the Administration was trying to flatten the Treasury curve to pass on lower rates to corporates and homeowners to stimulate the economy. Short-dated Treasuries underperformed, as accounts reallocated and bought bonds and strengthened U.S. equities. Anecdotally, some participants noted today's data coupled with lower rates at the back-end increased the likelihood the FOMC would cut by 25 bps next Tuesday, not 50 bps. The 2-10 year and 2-30 year curves are 11 and 23 bps flatter relative to this morning. Canadian long bonds benefitted, with the yield falling 16 bp (JCetina2-2017)

U.S. equities were mostly higher in active trading, in reaction to today's data. News Treasury was halting sales of long bonds also boosted stocks. Enron rose 14.2% to \$12.75 on talk of a takeover by GECapital, Berkshire Hathaway or Royal Dutch Petroleum. (JSharer2-2042)

Global Markets

Fx: The dollar rallied following the data, on the back of strength in equities and Treasury's news about the bond and discount currently about 0.5% firmer against most major currencies. This morning's move has pushed the euro and yen to technically significant levels at \$0.90 and Y122.50, if these levels are broken, further dollar buying could be triggered. (JCetina2-2017)

Europe: European bourses closed flat to 2.1% higher, with the CAC-40 outperforming as a number of firms announced cost-cutting moves and U.S. equities gained. German bund yields were up 2 to down 9 bps, with 30-year bunds outperforming. U.K. gilt yields fell 1 to 6 bps on slumping consumer confidence and expectations for another BOE rate cut. (JSharer2-2042)

Latin America: Dealers noted this morning continued interest by a large Spanish bank to buy Argentine bonds earlier this morning, triggering further buying by others to cover short positions. However, later in the morning contacts noted rumors Argentina has moved its reserves to the BIS (interpreted as a move to protect Argentine assets from creditors in the event of a default) which has weighed somewhat on Argentine debt. The Argentine 08' bond is currently down 2 points. (JCetina2-2017)

Equities	1:01PM	Change
DJIA	9,090	-0.35%
Nasdaq	1,685	1.05%
S&P500	1,061	0.09%
WilshireTotalMkt	9,785	0.07%
DJIA Vol.	127,135,200	
CanadianTSE	6,854	0.41%
MexicanBolsa	5,532	0.05%
BrazilianBovespa	11,061	0.33%
GermanDax	4,527	-0.37%
FrenchCAC-40	4,341	2.10%
U.K.FTSE	5,040	0.72%
Nikkei-225	10,366	-1.39%

U.S.Treasuries	1:01PM	Changebps
1-monthbill	2.14%	7
3-monthbill	2.07%	3
6-monthbill	1.96%	-4
2-year	2.47%	2
5-year	3.51%	-8
10-year	4.26%	-16
30-year	4.83%	-38

MoneyMarkets	1:01PM	Changebps
Overnightrate	2.69%	unchanged
DecemberFedFunds contractingyield	2.03%	.3

USDperformancevs	1:01PM	Change
Japaneseyen	122.39	0.38%
Euro	\$ 0.9019	0.29%
Sterling	\$ 1.4565	-0.36%
Swissfranc	1.6303	0.39%
Canadiandollar	1.5871	0.60%
Mexicanpeso	9.273	0.29%
Brazilianreal	2.695	-0.99%

Othercrossrates	1:01PM	Change
Euro/yen	110.34	0.05%
Euro/sterling	0.6189	-0.66%

Commodities	1:01PM	Change
Gold	\$279.30	-\$0.80
Oil(Brent)	\$19.63	-\$0.77
Near-datedNYMEX futurescontract	\$21.22	-\$0.65

Today'sEvents:	Actual	PreviousPeriod	ConsensusExpectation
USQ3GDP.advance -0.4% q/q 0.3% q/q -1.0% q/q			
USQ3GDPdeflator 2.1% 2.1% 1.6%			
TreasuryQuarterlyRefunding 9:45 a.m.			
ChicagoPMI 146.2 46.6 44.0			

TreasuryMarketRoom622-2650
TimothyDuLaney, Director

GLOBAL FINANCIAL MARKETS
10/31/01 12:00PM

	31-Oct	30-Oct	31-Oct	Friday's close	This week	This year
Yen	122.52	122.52	121.97	122.70	-0.15%	114.40 -7.10%
Euro	0.90	0.9001	0.9047	0.9151	-0.77%	0.9426 -4.51%
Sterling	1.45	1.4539	1.4513	1.4364	-1.20%	1.4931 -2.63%
Swiss	1.63	1.6345	1.6246	1.6512	-1.01%	1.6111 -1.45%
Canadian \$	1.59	1.5873	1.5783	1.5765	0.68%	1.4991 -5.88%
Australian \$	0.50	0.5029	0.5046	0.5027	-0.04%	0.5588 -10.00%
Korean won	1291.00	1291.0	1293.0	1294.5	-0.27%	1265.00 -2.06%
Indonesian rupiah	10475.00	10475	10400	10260	2.10%	9675.00 -8.27%
Philippine peso	51.95	51.95	51.95	52.05	-0.19%	50.00 -3.90%
Thai baht	44.71	44.71	44.70	44.88	-0.38%	43.40 -3.02%
Taiwan \$	34.50	34.50	34.50	34.52	-0.06%	33.12 -4.17%
Polish zloty	4.09	4.091	4.106	4.091	-0.02%	4.1325 1.02%
Russian ruble	29.73	29.73	29.69	29.71	0.07%	28.5410 -4.17%
South African rand	9.44	9.437	9.415	9.366	0.76%	7.5900 -24.34%
Mexican peso	9.27	9.268	9.250	9.237	0.34%	9.6410 3.87%
Brazilian real	2.70	2.700	2.723	2.724	-0.88%	1.9500 -38.46%
(EX-EURO)						
Gold	279.00	\$279.00	\$280.50	\$277.40	0.58%	272.40 2.42%
European Brent	19.57	\$19.57	\$20.41	\$20.31	-3.64%	22.58 -13.33%
Near Nymex futures	21.04	\$21.04	\$21.79	\$22.03	-4.49%	26.80 -21.49%
CRB Index	185.18	\$185.18	\$185.68	\$184.49	0.37%	227.83 -18.72%
STOCKS						
Dow Jones	9121	9,121	9,122	9,545	-4.45%	10786.85 -15.45%
Nasdaq	1700	1,700	1,667	1,769	-3.91%	2470.52 -31.20%
S&P 500	1064	1,064	1,060	1,105	-3.64%	1320.28 -19.38%
Nikkei 225	10366	10,366	10,513	10,795	-3.97%	13785.69 -24.80%
Japan Topix	1059	1,059	1,068	1,101	-3.80%	1283.67 -17.47%
German DAX	4559	4,559	4,544	4,820	-5.42%	6433.61 -29.14%
French CAC-40	4341	4,341	4,252	4,479	-3.07%	5926.42 -26.75%
U.K. FTSE-100	5040	5,040	5,004	5,189	-2.87%	6222.50 -19.01%
H.K. Hang Seng	10074	10,074	10,076	10,405	-3.18%	15095.53 -33.27%
Korean Kospi	538	538	534	543	-1.03%	504.62 6.58%
Taiwan Weighted	3903	3,903	3,916	4,044	-3.46%	4743.94 -17.72%
Polish Wig	13736	13,736	13,691	13,895	-1.14%	17847.55 -23.04%
South African JSE	8543	8,543	8,506	8,574	-0.36%	8326.20 2.61%
Mexican Bolsa	5577	5,577	5,529	5,693	-2.03%	5652.19 -1.32%
Brazilian Bovespa	11199	11,199	11,024	11,781	-4.94%	15259.29 -26.61%
CREDIT						
Overnight rate	2.63	3	0.05	0	3.76	0
3-month bill	2.07	3	0.01	0	3.52	-4
2-year bond	2.52	6	0.12	0	3.14	2
5-year bond	3.62	3	0.47	1	3.74	1
10-year bond	4.37	-4	1.31	-2	4.39	-1
30-year bond	4.94	-26	2.49	-4	5.05	-6
					3.88	-37
					3.76	0
					3.76	0
					3.76	0
					2.74	5
					2.37	2
					2.99	6
					4.20	4
					4.95	-4
					5.39	-17
US FIXED INCOME						
Current	0.00		4.92		65	
Bpschange	unchanged		-4		8	
					186	
					243	
					-11	
					-33	
EMERGING FIXED INCOME						
	Korea '08	Thailand '11	Indonesia '06	Russia MinFin '07	Poland PDI	
Current	5.58	5.54	11.08	13.61	7.05	
Bpschange	-5	-6	unchanged	unchanged	-1	
	ArgentinaPar	BrazilC	MexicoPar	VenezuelaDCB		
Current	41.08	15.93	9.34	13.44		
Bpschange	263	-18	6	9		

GlobalEmergingMarketsPerformance
10/31/01 12:00PM

TreasuryMarketRoom
TimDulany, Director
622-2052

	Currencies								
	Unit Change (In local currency terms)		Percent Change (In Dollars per Unit Terms)						
	31-Oct	30-Oct	31-Oct	30-Oct	This week	This month	This year	In'00	In'99
Japan	122.52	121.97	-0.5%	0.0%	0.1%	-2.5%	-7.1%	-11.9%	11.3%
Euro	0.9001	0.9047	-0.5%	-0.1%	0.8%	-1.3%	-4.5%	-6.3%	-14.3%
EuroYen	110.26	110.33	-0.1%	-0.1%	0.5%	1.3%	2.4%	4.4%	-22.3%
UK	1.4539	1.4513	0.2%	-0.2%	1.2%	-1.4%	-2.6%	-7.7%	-2.5%
Germany	2.1733	2.1620	-0.5% #	-0.1% #	0.8% #	-1.3% #	-4.7%	-6.8% 2	-13.8%
Australia	0.5029	0.5046	-0.3% #	-0.9% #	0.0% #	2.4% #	-10.0%	-14.9%	-0.5%
Canada	1.5873	1.5783	-0.6% #	0.0% #	-0.7% #	-0.5% #	-5.9%	-3.7%	-1.0%
Gold	279.00	280.50	-0.5%	0.3%	0.6%	-4.8%	2.4%	-5.5%	-0.4%
Thailand	44.71	44.7	0.0%	0.2%	0.4%	-0.6%	-3.0%	-15.7%	-2.3%
Indonesia	10,475	10400	-0.7%	-1.3%	-2.1%	-7.9%	-8.3%	-38.5%	14.5%
Malaysia	3.80	3.80	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Philippines	51.95	51.95	0.0%	0.0%	0.2%	-1.2%	-3.9%	-24.1%	-4.2%
SouthKorea	1,291	1293	0.2%	-0.1%	0.3%	1.0%	-2.1%	-11.4%	6.0%
Taiwan	34.50	34.50	0.0%	0.0%	0.1%	0.0%	-4.2%	-5.5%	2.7%
Singapore	1,8231	1,8241	0.1%	0.3%	0.2%	-3.2%	-5.2%	-4.1%	-1.0%
China	8.28	8.28	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Brazil	2.7000	2.7230	0.8%	0.0%	0.9%	-1.1%	-38.5%	-8.0%	-33.1%
Mexico	9,2680	9,2500	-0.2%	0.2%	-0.3%	2.4%	3.9%	-1.4%	4.1%
Chile	713.45	716.35	0.4%	-0.1%	0.2%	-2.9%	-24.3%	-8.3%	-10.7%
Colombia	2,308.00	2306.00	-0.1%	0.2%	0.3%	1.1%	-3.2%	-19.3%	-17.3%
Venezuela	743.41	743.65	0.0%	0.0%	0.0%	-0.1%	-6.3%	-7.8%	-13.0%
Poland	4.0905	4.1060	0.4%	-0.5%	0.0%	3.2%	1.0%	0.1%	-15.1%
Hungary	283.58	283.20	-0.1%	-0.8%	-0.2%	-0.6%	-1.0%	-11.0%	-14.5%
Czech	37.333	37.199	-0.4%	-0.3%	1.0%	-0.2%	0.8%	-5.1%	-15.7%
Russia	29.731	29.690	-0.1%	0.0%	-0.1%	-0.9%	-4.2%	-3.6%	-25.2%
SouthAfrica	9,4371	9,4151	-0.2%	0.4%	-0.8%	-4.5%	-24.3%	-23.5%	-4.5%
Turkey	1,593,500	1,595,000	0.1%	0.9%	1.0%	-4.2%	-137.7%	-23.6%	-41.9%
Greece	378.64	376.67	-0.5%	-0.1%	0.8%	-1.3%	-4.8%	-10.2%	-13.9%

	Equities (In local currency terms)								
	Unit Change		Percent Change						
	31-Oct	30-Oct	31-Oct	30-Oct	This wk	This mo.	This yr	In'00	In'99
Dow	9121	9122	0.0% #	-1.6% #	-4.4% #	3.1% #	-15.4%	-6.2%	25.2%
Nasdaq	1700	1667	1.9% #	-1.9% #	-3.9% #	13.4% #	-31.2%	-39.3%	85.6%
Nikkei	10366	10513	-1.4%	-0.9%	-4.0%	6.1%	-24.8%	-27.2%	36.8%
FT-SE100	5040	5004	0.7%	-1.6%	-2.9%	2.8%	-19.0%	-10.2%	17.8%
DAX	4559	4544	0.3%	-2.5%	-5.4%	5.8%	-29.1%	-7.5%	39.1%
CAC-40	4341	4252	2.1%	-3.0%	-3.1%	6.4%	-26.7%	-0.5%	51.1%
Thailand	275	274	0.5%	-1.6%	-2.0%	-0.7%	2.2%	-44.1%	35.4%
Indonesia	384	378	1.4%	-1.6%	-1.1%	-2.2%	-7.8%	-38.5%	70.1%
Malaysia	600	603	-0.5%	-0.4%	-2.0%	-2.5%	-11.7%	-16.3%	38.6%
Philippines	993	995	-0.2%	0.0%	-0.9%	-11.8%	-33.5%	-30.3%	8.8%
HongKong	10074	10076	0.0%	-1.0%	-3.2%	1.2%	-33.3%	-11.0%	68.8%
SouthKorea	538	534	0.7%	-2.6%	-1.0%	12.1%	6.6%	-50.9%	82.8%
Taiwan	3903	3916	-0.3%	-3.7%	-3.5%	7.3%	-17.7%	-43.9%	31.6%
Singapore	1368	1383	-1.1%	-0.7%	-3.1%	3.7%	-29.0%	-22.3%	78.0%
China	156	155.07	0.8%	-1.3%	0.2%	3.2%	74.6%	136.2%	32.0%
Brazil*	11199	11024	1.6%	-3.1%	-4.9%	5.3%	-26.6%	-10.7%	151.9%
Argentina*	228	224	2.1%	1.8%	-5.1%	-6.3%	-45.2%	-24.3%	28.0%
Mexico*	5577	5529	0.9%	-1.2%	-2.0%	3.2%	-13%	-20.7%	80.1%
Chile	104	103	0.5%	0.0%	-1.1%	4.9%	7.6%	-32.6%	41.8%
Colombia	817	817	0.0%	-0.2%	0.5%	-12.3%	14.6%	-28.6%	-9.3%
Venezuela	6582	6635	-0.8%	-0.5%	-1.6%	-6.5%	-3.6%	26.0%	14.8%
Poland	13736	13691	0.3%	-1.9%	-1.1%	15.5%	-23.0%	-1.3%	41.3%
Hungary	6773	6685	1.3%	-2.0%	-0.5%	9.7%	-13.7%	-11.0%	39.8%
Czech	375	373	0.8%	-1.1%	-0.3%	13.1%	-21.6%	-2.3%	24.2%
Russia	204	205	-0.3%	1.8%	2.5%	13.2%	42.4%	-18.2%	197.4%
SouthAfrica	8543	8506	0.4%	-1.3%	-0.4%	5.1%	2.6%	-2.5%	57.3%
Turkey	9849	9920	-0.7%	0.0%	-0.7%	29.1%	4.4%	-37.9%	485.4%
Greece	2468	2383	3.6%	-0.3%	4.1%	10.9%	-27.2%	-38.8%	102.2%

*Equities begin trading in Brazil, Argentina, and Mexico at 8:00a.m., 9:00a.m., and 9:30a.m. Eastern time respectively.

Exhibit G

DeSabla, Christine

From: Cetina, Jill
Sent: Thursday, March 02, 2006 11:51 AM
To: Ludwick, CM
Subject: FW: Per our conversation today...

Jill Cetina, CFA
Financial economist
Office of Debt Management
U.S. Treasury Department
202-622-9469

-----Original Message-----

From: Cetina, Jill
Sent: Thursday, November 01, 2001 3:46 PM
To: 'patrick.haskel@csfb.com'
Subject: Per our conversation today...

Pat --

I tried to buzz you in the early afternoon but you were off the desk. I wanted to encourage you to call Brian Roseboro (the Asst. Secretary for Fin. Markets & Peter's deputy) to share your views about the Quarterly Refunding. Brian is a good guy -- I talked with him about my conversation with you (not mentioning you by name) and one other contact who is also the head of a desk and said you had both expressed strong concerns about non-website related leaks. Brian said it would be fine for you to call him.

Encourage you to consider it. His # is 202-622-1715. Think it would be useful for both you.

rgds,

Jill

Treasury Market Room
202-622-2017

5/25/2006

FOIAKBC

400

om:
ent:
To:
Subject:

Cetina, Jill
Thursday, March 02, 2006 11:52 AM
Ludwick, CM
FW: Per our earlier conversations

Jill Cetina, CFA
Financial economist
Office of Debt Management
U.S. Treasury Department
202-622-9469

-----Original Message-----

From: Cetina, Jill
Sent: Thursday, November 01, 2001 3:58 PM
To: 'robert.sbarra@us.hsbc.com'
Subject: Per our earlier conversations

Bob --

I wanted to encourage you to call Brian Roseboro (the Asst. Secretary for Fin. Markets & Peter's deputy) to share your views about the Quarterly Refunding. Brian is a good guy – I talked with him about my conversation with you (not mentioning you by name) and one other contact who is also the head of a desk and said you had both expressed strong concerns about non-website related leaks. Brian said it would be fine for you to call him.

Encourage you to consider it. His # is 202-622-1715. Think it could be useful for both you.

rgds,

Jill

Butler, Deborah E.

From: Cetina, Jill
Sent: Wednesday, October 31, 2001 10:11 AM
To: 'DEREK KEHOE, HSBC, TSY & CAP MKTS'
Subject: RE: Treasury QR Announcement

You are most welcome. Be curious in the reaction you all are hearing from clients and your views on the announcement. Bob called in just before I sent this out to say it was removed.

-----Original Message-----

From: DEREK KEHOE, HSBC, TSY & CAP MKTS [mailto:DKEHOE@bloomberg.net]
Sent: Wednesday, October 31, 2001 10:10 AM
To: Jill.Cetina@do.treas.gov
Subject: Re: Treasury QR Announcement

Thanks Jill!

-----Original Message-----

From: Jill Cetina <jill.Cetina@do.treas.gov>
At: 10/31 15:04

This document has been prepared for information only and is issued by HSBC Bank plc, regulated by SFA. In the UK it is not intended for "Private Customers" and in USA is for "major US institutional investors" (as defined in rule 15a-6 of the US Securities Exchange Act of 1934). It may not be distributed to any other person in UK or USA. This document is not an invitation to buy or to sell securities or derivatives. It is based on information obtained from sources believed to be reliable but HSBC Bank plc makes no representation and accepts no responsibility as to its completeness or accuracy.

Exhibit H

Jill Cetina

Washington, DC

February 8, 2008

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 ----- x
4 UNITED STATES SECURITIES AND :
5 EXCHANGE COMMISSION, :
6 Plaintiffs, :
7 v. : Civil Action No.
8 STEVEN E. NOTHERN, : 05-10983 (NMG)
9 Defendant. :
10 ----- x

11 Videotaped Deposition of JILL CETINA
12 Washington, D.C.
13 Friday, February 8, 2008
14 9:56 a.m.

15

16

17 * * * *

18

19

20

21 Reported by: Okeemah S. Henderson, LSR

22

Jill Cetina

February 8, 2008

Washington, DC

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<p>1 A. Okay.</p> <p>2 Q. Great. Okay. If we go to the middle 3 of the page it says at least according to my 4 reading here, "10-year notes were announced on 5 October 4 at 11 a.m. Some viewers 6 alleged-HSBC-New York Desk-Bob Sbarra", 7 S-B-A-R-R-A-and I'm not sure, oh, Credit First -- 8 "Credit Suisse".</p> <p>9 A. Credit Suisse First Boston, Pat 10 Haskel.</p> <p>11 Q. -- "they mentioned tenure in 12 conjunction with complaining about release of 13 information early on the bond." Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And then down below, it says, "Thinks 16 Bob complained after 10 year. Pat was listing 10 17 year as another incident." Do you see that?</p> <p>18 A. Uh-huh. Okay.</p> <p>19 Q. Does this refresh your recollection 20 that at the time that there was a controversy 21 about the events of October 31 relating to the 22 30-year bond that you also heard complaints about</p>	<p>1 Q. His name may be misspelled. 2 A. It is misspelled there. Yes. 3 Q. And the proper spelling is? 4 A. I believe, H-A-S-K-A-L. 5 Q. Or perhaps, H-A-S-K-E-L-L? 6 A. It could be. It's been a long time 7 since I sent Pat an E-mail. 8 Q. It's not a spelling bee. 9 A. I know it's not with a C. 10 Q. And what was Mr. Haskel's position? 11 A. It was a similar position, you know, 12 basically sort of like head of the treasury desk 13 at Credit Suisse First Boston.</p> <p>14 MR. SHOPE: If you could mark this as 15 the next exhibit. (Deposition Exhibit No. 3 was marked for identification.)</p> <p>18 BY MR. SHOPE:</p> <p>19 Q. And I'm showing you what's been marked 20 as Exhibit 3. If you look in the middle of the 21 page, the E-mail from Mr. Bitsberger. First of 22 all, do you know who Mr. Bitsberger was?</p>
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<p>1 a similar incident earlier in the month?</p> <p>2 MS. WILLIAMS: Objection.</p> <p>3 A. From looking at these notes. Yes.</p> <p>4 Now, it would appear that that was what I said, 5 and I do remember having conversations with Pat 6 and Bob. Some of the aspects of the conversation 7 I still recall that they particularly mentioned 8 the surprise reopening of the 10 year, I didn't 9 recall, but looking at this now, you know, this is 10 what I said to her at the time.</p> <p>11 So, you know, I'm sure that was correct. I 12 was trying to help the Department by sharing what 13 other people had shared with me.</p> <p>14 BY MR. SHOPE:</p> <p>15 Q. And let's just talk about who those 16 folks are. Who is Bob Sbarra?</p> <p>17 A. At that time, he was the head of the 18 trading desk for treasury securities at HSBC, I 19 think he may have since retired from that 20 position.</p> <p>21 Q. And?</p> <p>22 A. Pat Haskel.</p>	<p>1 A. At that time, yes, and later he was 2 the assistant secretary in the division in which I 3 worked in 2004.</p> <p>4 Q. And Mr. Bitsberger's E-mail says under 5 point 3, "There was a leak a few weeks ago at the 6 emergency reopening. The refunding process has 7 been criticized for years because of suspected 8 leaks." Had you heard any report of the facts 9 that Mr. Bitsberger is reporting here?</p> <p>10 A. That there had been a leak during the 11 tenure reopening?</p> <p>12 Q. Yes.</p> <p>13 A. There had been articles in the press 14 but, no. This E-mail hadn't, I don't believe, 15 been shared with me.</p> <p>16 Q. But putting aside whether you received 17 this particular E-mail, within Treasury around 18 this October, November time frame, had there been 19 any kind of an internal discussion about suspected 20 leaks in connection with the 10-year reopening?</p> <p>21 MS. WILLIAMS: Objection.</p> <p>22 A. Not in my area. But my area was not</p>

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<p>1 A. It's the quote here in the Reuters 2 article, which --</p> <p>3 Q. Just. So try to maybe I can simplify 4 things here. This article states that Mr. Roberts 5 is quoted, "When they did the reopening of the 10 6 year, there was advance information on the street, 7 there's advanced information here and so there are 8 a number of people on the street who are pretty 9 upset about it." Roberts said. Is that the quote 10 to which you are referring?</p> <p>11 A. That as well as the quote above it in 12 the third paragraph.</p> <p>13 Q. So could you read that quote aloud 14 into the record?</p> <p>15 A. "There is going to be a lot of noise 16 about that quote", said John Roberts. Quote, 17 "It's a fluke and it's wrong that people have 18 information. It's like being able to trade on 19 inside information" unquote, he said.</p> <p>20 Q. And that's referring to the fact that 21 Treasury had advised some people about this 22 development sooner than others or at least that's</p>	<p>1 BY MR. SHOPE: 2 Q. And getting back to the interview 3 notes that we talked about earlier, were you 4 receiving complaints from market participants that 5 treasury either in the 10-year reopening at the 6 beginning of October or with regard to the 7 decision to suspend issuance of the long bonds on 8 October 31, that treasury was distributing the 9 information in an uneven way?</p> <p>10 MS. WILLIAMS: Objection. 11 MR. FREEBORNE: Objection. 12 A. I received complaints that, not that 13 Treasury had necessarily been the party 14 responsible for it to be distributed in an uneven 15 way but that there had been, people called because 16 they were angry, they felt that there had been a 17 leak of this information.</p> <p>18 I don't think people -- I'm trying to think 19 about some of the statements that were made to me 20 at that time. At least one participant may have 21 stated it that bluntly that he felt that certain 22 people, you know, had an inside track on what</p>
<p>1 what Mr. Roberts is alleging? 2 MS. WILLIAMS: Objection. 3 A. Can you restate the question? 4 MR. FREEBORNE: Yes. If you know. 5 BY MR. SHOPE: 6 Q. Sure. First of all, it says down here 7 that "There is suspected insider trading by market 8 players who sit on the treasury borrowing advisory 9 committee." Do you see that?</p> <p>10 A. That's what is stated in the Reuters 11 article, that's not Mr. Roberts's statement. 12 Q. I understand but did that aspect of 13 the Reuters article also cause consternation 14 within Treasury?</p> <p>15 MR. FREEBORNE: Are you asking her with 16 her or?</p> <p>17 MR. SHOPE: Within Treasury is my 18 question.</p> <p>19 MS. WILLIAMS: Objection. 20 A. I'm sure it did. I think this whole 21 topic caused a lot of consternation in Treasury, 22 need less to say.</p>	<p>1 Treasury was doing. 2 That was his opinion that he asserted to me, 3 his view, which I felt was my responsibility to 4 share with senior policymakers that there were 5 people in senior positions trading who routinely 6 trade treasury securities who felt this way and 7 that that was important that they know.</p> <p>8 BY MR. SHOPE: 9 Q. And who was the individual who made 10 the blunt statement? 11 A. The person that I'm thinking of is Pat 12 Haskel. I don't recall the quotes, but I recall 13 that he had a -- that we had at least one phone 14 call and possibly two in which he expressed 15 anger/concern about, you know, this type of 16 situation?</p> <p>17 Q. And when you say this type -- let me 18 just make sure I understand the anger. The anger 19 that he was expressing was that he thought that 20 there were other market players, not at his firm, 21 who had an inside track on information about what 22 Treasury was going to do with its debt</p>
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<p>1 instruments. Is that the summary of his position?</p> <p>2 MS. WILLIAMS: Objection.</p> <p>3 MR. ROSSETTI: I'm sorry. Are you</p> <p>4 talking about the 30-year bond at this point or</p> <p>5 are you talking about the 10-year note. I'm</p> <p>6 unclear.</p> <p>7 MR. SHOPE: I think we're talking about</p> <p>8 both and that's indeed the context of these notes</p> <p>9 that we've been discussing.</p> <p>10 MR. FREEBORNE: I believe that was the</p> <p>11 grounds for the objection.</p> <p>12 MR. SHOPE: That's why I said that</p> <p>13 instrument, so that includes --</p> <p>14 THE WITNESS: Can we just rewind on</p> <p>15 what the question was, just so I'm clear.</p> <p>16 BY MR. SHOPE:</p> <p>17 Q. Yes. I want to understand what Mr.</p> <p>18 Haskel's statement was to you as best you can</p> <p>19 recall it. You obviously may not remember the</p> <p>20 words verbatim so many years later, but you can</p> <p>21 give me the best of the substance of what his</p> <p>22 complaint was?</p>	<p>1 have been on the issue substantively but also</p> <p>2 informed by the meeting for his firm in financial</p> <p>3 terms.</p> <p>4 Q. The E-mail from Mr. Bitsberger that we</p> <p>5 looked at a moment ago, Exhibit 3, states that</p> <p>6 "The suspected leak in connection with the</p> <p>7 reopening of the 10-year note was attributed to</p> <p>8 the borrowing committee." Do you see that, it's</p> <p>9 up at the top?</p> <p>10 A. Uh-huh.</p> <p>11 Q. Was Mr. Haskel making the same</p> <p>12 allegation essentially, that people who were</p> <p>13 sitting on the borrowing advisory committee of</p> <p>14 Treasury had an inside track to Treasury's debt</p> <p>15 management decisions?</p> <p>16 MS. WILLIAMS: Objection.</p> <p>17 A. No. I don't recall that Pat was</p> <p>18 specifically making any reference to the borrowing</p> <p>19 advisory committee. When I do seem to recall that</p> <p>20 from my conversation with him, he particularly</p> <p>21 with respect to the 30 year, noted to other</p> <p>22 primary dealers who he said had been, you know,</p>
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<p>1 A. Well, I think the substance of his</p> <p>2 complaint was that it appeared to him that some</p> <p>3 individuals knew in advance of the official</p> <p>4 announcement time, debt management decisions that</p> <p>5 were potentially of market relevance, that was,</p> <p>6 you know, one of the things that he communicated</p> <p>7 to me.</p> <p>8 Now, in the job that I had, you always had</p> <p>9 to be aware that people's perspectives on policy</p> <p>10 actions also depended on what position they were</p> <p>11 running for their particular firm. So, you know,</p> <p>12 if Mr. Haskel or any of these other individuals</p> <p>13 who called to complain were they short the 30</p> <p>14 year, the morning that that occurred? I have no</p> <p>15 idea, but, you know, it wasn't the first time I've</p> <p>16 had people call and be upset about something that</p> <p>17 happened in financial markets and that their</p> <p>18 emotions, shall I say, may have been influenced</p> <p>19 also by their profit and loss on that particular</p> <p>20 day.</p> <p>21 All I'm trying to say is that his emotional</p> <p>22 state or his anger that he expressed to me may</p>	<p>1 buying the 30 year that morning, in his words,</p> <p>2 aggressively, but other than reference to those</p> <p>3 two specific firms, he didn't particularly allege</p> <p>4 anything about who had benefitted.</p> <p>5 BY MR. SHOPE:</p> <p>6 Q. And if we look at the notes of the</p> <p>7 interview that you gave back in 2001, those</p> <p>8 handwritten notes.</p> <p>9 A. This is Exhibit 2.</p> <p>10 Q. Yes. If you can pull that out. If we</p> <p>11 go to the page 3 of Exhibit 2 where there's</p> <p>12 reference to your discussions with Mr. Sbarra and</p> <p>13 Mr. Haskel, it says, "(A) Lehman Brothers; (B)</p> <p>14 Goldman Sachs mentioned on the 31st." Are Lehman</p> <p>15 Brothers and Goldman Sachs the two firms that Mr.</p> <p>16 Haskel said had been buying aggressively based on</p> <p>17 inside track information?</p> <p>18 MS. WILLIAMS: Objection.</p> <p>19 A. I believe those are -- my recollection</p> <p>20 is those are the two firms he referred to. I</p> <p>21 don't believe he went so far as to say they had</p> <p>22 inside information. What he conveyed to me,</p>

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<p>1 however, was that they had been buying the 30 year 2 that morning prior to 10 a.m.</p> <p>3 BY MR. SHOPE:</p> <p>4 Q. Well --</p> <p>5 A. Which with the inference being that he 6 had some concern about the source of their 7 information and why they were engaging in those 8 trades. I think he was also trying to be careful 9 in what he said to me and how he said it.</p> <p>10 Q. But the implication was that the 11 reason that Goldman Sachs and Lehman were buying 12 so heavily was that they had some knowledge?</p> <p>13 A. That they must have known that they 14 had preknowledge.</p> <p>15 MS. WILLIAMS: Objection.</p> <p>16 BY MR. SHOPE:</p> <p>17 Q. That would be the reason why he would 18 be angry?</p> <p>19 A. Right.</p> <p>20 MR. FREEBORNE: Objection.</p> <p>21 MS. WILLIAMS: Objection.</p> <p>22 A. Again, as I indicated, you know, he</p>	<p>1 approximately 20 something.</p> <p>2 BY MR. SHOPE:</p> <p>3 Q. And did you know of a Jack Malvey at 4 Lehman Brothers?</p> <p>5 A. Yes. He's one of their fixed income, 6 analyst is too low. I don't know what his title 7 is but he's one of their senior fixed income 8 strategists at Lehman. Yes.</p> <p>9 Q. So he would be someone at Lehman whose 10 job would include strategizing about the 30-year 11 bond?</p> <p>12 MS. WILLIAMS: Objection.</p> <p>13 A. I mean, my experience from reading his 14 pieces is that he thinks about credit strategy 15 which could include the treasury market, it could 16 include other markets as well for Lehman Brothers. 17 So anything relating to fixed income, i.e. bonds 18 potentially.</p> <p>19 BY MR. SHOPE:</p> <p>20 Q. And were you aware that Jack Malvey at 21 Lehman Brothers was related to Paul Malvey at the 22 Treasury Department?</p>
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<p>1 could have been angry because he got caught short 2 but clearly he could have also been angry because, 3 you know, if he felt that there was inside 4 information or information being leaked.</p> <p>5 BY MR. SHOPE:</p> <p>6 Q. Do you know a Woody Jay?</p> <p>7 A. The name is familiar.</p> <p>8 Q. Are you aware that Woody Jay was a 9 vice chair of borrowing advisory committee in 10 2001?</p> <p>11 A. I may have been aware of it after the 12 fact. At that time, I don't think I was.</p> <p>13 Q. At the time, was Woody Jay working for 14 Lehman Brothers?</p> <p>15 A. I don't know.</p> <p>16 Q. Lehman Brothers was a major market 17 participant with respect to treasury securities; 18 is that fair to say?</p> <p>19 MS. WILLIAMS: Objection.</p> <p>20 A. Lehman Brothers was one of the New 21 York Feds primary dealers in the treasury market, 22 one of, I don't know how many at that time, but</p>	<p>1 MS. WILLIAMS: Objection.</p> <p>2 A. I wondered about that at the time. I 3 learned that later.</p> <p>4 BY MR. SHOPE:</p> <p>5 Q. How did you learn that later?</p> <p>6 A. I asked someone. Not in 2001 but 7 later. I don't know what year. It may have been 8 when I moved in domestic finance.</p> <p>9 Q. So possibly like 2002?</p> <p>10 A. 2002 I wasn't in domestic finance. I 11 don't think I moved until 2004.</p> <p>12 Q. Now, turning back to your interview 13 notes --</p> <p>14 MR. FREEBORNE: I think that misstates 15 the record about her notes.</p> <p>16 MR. SHOPE: Oh, I'm sorry. The notes 17 of your interview. I apologize.</p> <p>18 BY MR. SHOPE:</p> <p>19 Q. There's reference to a meeting that 20 you had with a Drew Matus?</p> <p>21 A. Drew Matus.</p> <p>22 Q. Or Matus. And he also was employed by</p>

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1 Lehman Brothers, correct?	1 It was mostly just to discuss sort of big
2 A. Correct.	2 picture what was going on in the financial
3 Q. Do you know whether he was working for	3 markets, particularly fixed income.
4 Woody Jay at that time?	4 Q. Mr. Matus in the past I gather had
5 A. They all worked at Lehman Brothers but	5 told you that he was kind of plugged in as far as
6 I presume but it's really beyond my -- I don't	6 what Treasury was going to be doing, correct?
7 understand. I didn't understand in 2001 what the	7 MS. WILLIAMS: Objection.
8 reporting structure of Lehman Brothers was.	8 A. I don't specifically recall that.
9 Q. Sure. And when you met with Mr.	9 That's what's written here in the notes. So.
10 Matus, he had just come from a meeting with Paul	10 BY MR. SHOPE:
11 Malvey and Jeff Huther, correct?	11 Q. I'm sorry. You say it's written in
12 MS. WILLIAMS: Objection.	12 the notes but you're just sitting here
13 A. I believe that was what he told me or	13 today you're --
14 that was my sense. And later when I was in debt	14 MR. FREEBORNE: I'm confused as to what
15 management, I actually asked Jeff if he had met	15 the question is.
16 with Drew and if he and Paul had met with Drew and	16 BY MR. SHOPE:
17 he confirmed that to me, he, being Jeff.	17 Q. Sure. Well, the question is does she
18 BY MR. SHOPE:	18 recall Mr. Matus indicating that he was plugged
19 Q. Jeff Huther had confirmed that. Okay.	19 into what Treasury would be doing on debt
20 And I see in the notes on page 4 it says at the	20 management?
21 top Drew --	21 MR. FREEBORNE: When you say plugged
22 MR. FREEBORNE: Can you give her a	22 in, what do you mean?
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1 second to catch up?	1 MR. SHOPE: I'm simply quoting from the
2 MR. SHOPE: Certainly. "Drew said he	2 notes of the interview.
3 was meeting with Paul Malvey, Jeff Huther of	3 A. Drew always seemed very knowledgeable
4 treasury -- he met with them before he met with	4 about the treasury market, but that -- I don't
5 her." So is that consistent with your memory?	5 specifically remember that from that time. It's
6 A. Yes.	6 here in the notes from, you know, the interview
7 Q. At the meeting that you had -- first	7 with me. You just have to -- I'm not trying to be
8 of all, what was the purpose of the meeting with	8 difficult. I just don't specifically recall that.
9 Mr. Matus on -- first of all, that was on	9 BY MR. SHOPE:
10 October 22nd; is that correct?	10 Q. But you have no reason to believe that
11 A. Right.	11 you didn't say that; is that fair to say?
12 Q. And what was the purpose of the	12 MS. WILLIAMS: Objection.
13 meeting with Mr. Matus on October --	13 MR. FREEBORNE: You can answer. I
14 A. My meeting?	14 mean, I don't think it's, there's no quotes around
15 Q. Yes.	15 it. It could have very well been the person that
16 A. Drew was someone who I would speak to.	16 took the notes, that's her interpretation of what
17 He was a contact and one of my, he had many	17 was said or so I don't think that's a fair
18 contacts in fixed income and foreign exchange	18 question.
19 markets, so somebody that I talked to from time to	19 A. It's just so long ago, I don't
20 time. He had let me know that he was going to be	20 remember that aspect of it.
21 in Treasury. He said how about we get together	21 BY MR. SHOPE:
22 and talk. So that was what we did.	22 Q. But you're saying Mr. Matus always

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<p>1 appeared to be very knowledgeable; is that at 2 least a fair summary?</p> <p>3 A. I think that's a fair summary.</p> <p>4 Q. Again, going to the notes in Ms. 5 Kerner's subsequent memorandum, which we can 6 review in a minute --</p> <p>7 A. So we're done with --</p> <p>8 Q. No. I think we're going to stick on 9 the notes for a second. With regard to Mr. Matus, 10 do you recall in the course of your meeting on the 11 22nd he went on to suggest that Treasury would be 12 eliminating 30-year bond?</p> <p>13 MS. WILLIAMS: Objection?</p> <p>14 A. I seem to recall him saying that, and 15 I seem to recall being a bit taken aback by him 16 saying that. I have some recollection of that, I 17 don't fantastic, you know, what his precise 18 sentence was, but I have some recollection of it.</p> <p>19 BY MR. SHOPE:</p> <p>20 Q. And why were you taken aback by that 21 suggestion that Mr. Matus made about eliminating 22 30-year bond?</p>	<p>1 Q. Under the heading treasuries, there is 2 in Exhibit 5 there is an underline sentence that 3 says, "Some analysts wondered whether Treasury 4 might cancel buybacks and the long bond 5 simultaneously to prevent long term rates from 6 rising." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. First of all, this Exhibit 5 is a 9 document that you drafted, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Does that sentence relate to your 12 meeting with Mr. Matus?</p> <p>13 A. Yes. Because I would never -- 'm 14 sorry to speak over you, but when we would write 15 these type of reports, you were never supposed to 16 identify the firms because this was disseminated 17 very broadly within the Department.</p> <p>18 You typically did not identify the firms 19 that or the people, the individuals that were 20 articulating those views. So, I wouldn't have 21 said Drew Matus said blah. I would have said some 22 analyst.</p>
<p>1 A. Because it wasn't something that I 2 heard other dealers talking about as an 3 expectation that they had for treasury debt 4 management; hence, it was an unusual view and thus 5 I thought noteworthy.</p> <p>6 MR. SHOPE: I'd like to show you a 7 document here.</p> <p>8 (Deposition Exhibit No. 5 was marked for 9 identification.)</p> <p>10 BY MR. SHOPE:</p> <p>11 Q. I'm going to focus on the portion of 12 this memorandum that's under the heading 13 treasuries?</p> <p>14 A. Yes.</p> <p>15 MR. FREEBORNE: Is the underlining in 16 the original or is that somebody else's?</p> <p>17 MR. SHOPE: That's as it was produced 18 to us by the Government. Just let me know when 19 you're ready. I'm not going to ask you any 20 questions about the indices on the right.</p> <p>21 THE WITNESS: Okay.</p> <p>22 BY MR. SHOPE:</p>	<p>1 Q. And so when it says analysts in the 2 plural, they're actually, for the reason you just 3 mentioned, there really weren't multiple analysts, 4 it was just Mr. Matus at Lehman Brothers?</p> <p>5 MS. WILLIAMS: Objection.</p> <p>6 A. That I was aware of. I can't speak to 7 was there anybody in the market analyzing the 8 treasury market but at that moment in time the 9 person -- I only had one person in mind and that 10 was Lehman Brothers. Drew at Lehman.</p> <p>11 BY MR. SHOPE:</p> <p>12 Q. Sure. And when you, I guess eight 13 days after you prepared this report, we had the 14 events of October 31, 2001, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And there was obviously a lot of 17 controversy about allegations that some people 18 knew about the decision to cancel the long bond 19 before other people did, correct?</p> <p>20 MS. WILLIAMS: Objection.</p> <p>21 A. I'm sorry. Can you -- whenever 22 there's an objection. I get a little confused.</p>

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<p>1 you were aware of a 10 o'clock embargo; was that 2 correct at the time?</p> <p>3 A. I believe so.</p> <p>4 Q. How was that? I mean, in other words, 5 how did you come to know that there was such a 6 10 o'clock time that had been set?</p> <p>7 A. Again, my recollection is not perfect. 8 I really don't know. I think someone may have 9 come in and told us but I don't remember.</p> <p>10 Q. And would it be fair to say that as 11 the morning proceeded, you received communications 12 from various market participants complaining about 13 the fact that some people appeared to know of the 14 decision to suspend the long bond before others 15 did?</p> <p>16 MS. WILLIAMS: Objection.</p> <p>17 A. Yes. I think that's a fair statement.</p> <p>18 BY MR. SHOPE:</p> <p>19 Q. And we've talked about the complaint 20 that Mr. Haskel had mentioning Lehman Brothers and 21 Goldman Sachs?</p> <p>22 A. Yes.</p>	<p>1 more.</p> <p>2 Q. When you say it was a little more 3 heated, can you give me some more detail on that?</p> <p>4 A. I just mean that again, when 5 someone -- when you're in that type of a position 6 and someone is angry about something that the 7 department is doing, you're the receiving -- 8 you're the in-box for the complaint and you get 9 all the everything and it was, he was very unhappy 10 and so I recall that unhappiness being conveyed 11 and that, you know, about these concerns that 12 other firms knew about things in advance perhaps 13 of his own. In advance of a public release time.</p> <p>14 MR. SHOPE: Sure. Maybe we can mark 15 this as the next exhibit.</p> <p>16 (Deposition Exhibit No. 9 was marked for 17 identification.)</p> <p>18 BY MR. SHOPE:</p> <p>19 Q. These are some two very short E-mails. 20 I just want to ask you about, just some of 21 terminology. They both come from the files of 22 Goldman Sachs and were provided to us by the</p>
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<p>1 Q. Correct. And included in that would 2 also be a similar complaint from Mr. Sbarra?</p> <p>3 A. Mr. Sbarra made a compliant. Sitting 4 here today, I cannot recall whether he also 5 mentioned those two firms specifically or not.</p> <p>6 Q. If we look at the interview notes on 7 page 3, about two thirds of the way down it says 8 "Think Bob complained after 10 year. Pat was 9 listing 10 year as another incident." I know 10 we've touched on this a little earlier but perhaps 11 since we've been talking your memories have been 12 refreshed a little bit. Do you remember Mr. 13 Sbarra having complained earlier that month about 14 the incident with the 10 year reopening?</p> <p>15 A. It's entirely possible that he made a 16 complaint like that to me. Again, I sort of -- he 17 was someone that called in or that we might call 18 out to. But I don't have a specific recollection 19 of a conversation. It's possible, but I don't 20 recall it. I seem to recall it more with Pat and 21 perhaps because the conversation with Pat was a 22 little more heated, it stuck with me a little</p>	<p>1 Government and you can see the first one has an 2 E-mail from Ray Walton of Cantor Fitzgerald. Did 3 you know who Ray Walton was?</p> <p>4 A. No.</p> <p>5 Q. Was Cantor Fitzgerald a participant in 6 the bond market?</p> <p>7 A. Yes.</p> <p>8 Q. They were a very major participant?</p> <p>9 A. Yes.</p> <p>10 Q. This E-mail says Lehman buys 1.5 K USC 11 USC, that's a reference to the 30-year bond, 12 correct?</p> <p>13 A. Not -- I presume that's what they're 14 referring to.</p> <p>15 Q. And then it says up to 17 still 16 buying. Do you know what the up to 17 refers to?</p> <p>17 A. It may refer to the price of the bond 18 that it was up to \$117 dollars but I don't have 19 any data to support that.</p> <p>20 Q. And that's because when you say \$117 21 dollars that's off of a par of --</p> <p>22 A. It's off par. So when they say 17,</p>

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<p>1 somebody coming in at some point that morning and 2 sort of explaining that maybe something posted 3 improper or I don't know.</p> <p>4 Q. So in other words, even before 5 10 o'clock, someone might have been coming in and 6 saying, you know, oh, we're having a problem with 7 this one up on the website too early?</p> <p>8 MS. WILLIAMS: Objection.</p> <p>9 A. I don't know. Maybe, maybe not. I'm 10 not sure. I know that -- I don't recall that 11 well. Sorry.</p> <p>12 BY MR. SHOPE:</p> <p>13 Q. This was a while ago. If we can flip 14 the page I guess a couple of pages until we get to 15 the fourth page of the exhibit, which it ends in 16 876 on the lower right corner. Subject line -- 17 this is from you at 10:45 a.m. to a group of 18 others. The addressees are all within the 19 Treasury Department, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it says, "Some thoughts on the 22 E-mail from a primary dealer contact." Do you</p>	<p>1 about earlier?</p> <p>2 A. Yes. Flattening the five-year note 3 relative to the 30-year bond.</p> <p>4 Q. Basically that would reflect the idea 5 that the price of the 30-year bond would be going 6 up, correct?</p> <p>7 MS. WILLIAMS: Objection.</p> <p>8 A. Generally that would be a way to 9 interpret it. Yes.</p> <p>10 BY MR. SHOPE:</p> <p>11 Q. Because the price moves inversely to 12 the yield.</p> <p>13 A. Right.</p> <p>14 Q. So if the price goes up, the yield on 15 the 30 comes down?</p> <p>16 A. Comes down and yield curve flattens.</p> <p>17 MS. WILLIAMS: Objection.</p> <p>18 BY MR. SHOPE:</p> <p>19 Q. And generally speaking historically, 20 typically the yield on the 30-year bond has been 21 higher than the yield on the five-year bond, 22 correct?</p>
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<p>1 know who that was?</p> <p>2 A. This may have been an E-mail from Pat 3 or it could have been Bob. I don't know.</p> <p>4 Q. You're saying Pat Haskel or Bob 5 Sbarra?</p> <p>6 A. Yes.</p> <p>7 Q. So is it your belief that in addition 8 to speaking with you, one of them might have sent 9 you an E-mail as well?</p> <p>10 A. Mn-hmm, mm-hmm, mm-hmm. Yes.</p> <p>11 Q. Would there have been a reason why 12 whoever sent the E-mail would have done that in 13 addition to having spoken with you?</p> <p>14 A. When something like this happens, you 15 can have people like multiple traders on a desk 16 and, you know, so you -- it could be that they 17 learned something additional and sent it to me in 18 E-mail. I don't know.</p> <p>19 Q. Now, this statement is, We definitely 20 heard rumors as early as 9 o'clock a.m. which were 21 flattening 5/30s. Is that a reference to a 22 flattening of the yield curve that we were talking</p>	<p>1 A. Yield curve is usually a bit sloping 2 but not always.</p> <p>3 Q. All right. Did you follow up with 4 this primary dealer to find out where the rumors 5 had been heard or from whom they had been heard?</p> <p>6 A. Again, I think this was Pat or Bob, so 7 I'm sure I was in some further contact with them.</p> <p>8 Q. Would it be fair to say that with 9 respect to this page this was a cut and paste of 10 an E-mail?</p> <p>11 A. Yes.</p> <p>12 Q. So what happened to the E-mail that 13 the primary dealer had actually sent to you in the 14 first place?</p> <p>15 A. Should be -- well, in theory, it 16 should be somewhere in the E-mail record.</p> <p>17 Q. Well, did you delete that E-mail?</p> <p>18 A. I don't know. I don't believe I would 19 have recognizing that this -- you know. No.</p> <p>20 Q. It was an important subject of 21 controversy, correct?</p> <p>22 A. Yes.</p>

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<p>1 of perhaps of who I spoke with that day.</p> <p>2 BY MR. SHOPE:</p> <p>3 Q. Well, it says to memorialize the</p> <p>4 conversation. So presumably that would have been</p> <p>5 a summary of what people had said in the different</p> <p>6 conversations.</p> <p>7 MS. WILLIAMS: Objection.</p> <p>8 BY MR. SHOPE:</p> <p>9 Q. So going back to Exhibit 10, if we go</p> <p>10 to the page which in the lower right corner ends</p> <p>11 in 877. In the E-mail from you that's 11:40 a.m.</p> <p>12 on October 31, it says, "I had a different primary</p> <p>13 dealer tell me that they received a call from John</p> <p>14 Jacobs from IDEA yesterday about a rumor that</p> <p>15 Treasury would eliminate the long bond." Do you</p> <p>16 know which primary dealers that?</p> <p>17 A. I have to say I don't.</p> <p>18 Q. Now, this indicates a rumor yesterday.</p> <p>19 In other words, a rumor on October 30 about</p> <p>20 elimination of the long bond, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And did anyone else report a rumor on</p>	<p>1 for that?</p> <p>2 A. Correct. Because he had sort of a</p> <p>3 unique view on that particular subsector of the</p> <p>4 treasury market, he was an interesting person to</p> <p>5 talk to.</p> <p>6 Q. Unique view in the sense that his</p> <p>7 customers --</p> <p>8 A. His customers were Central Bank. So</p> <p>9 that's a unique window into Central Bank purchases</p> <p>10 of treasury securities.</p> <p>11 Q. So the conversation with Mr. Kehoe was</p> <p>12 on the morning of October 31?</p> <p>13 A. Must have been. Yes.</p> <p>14 Q. And but you had spoken with him on</p> <p>15 other occasions?</p> <p>16 A. Yes. Mostly about foreign exchange,</p> <p>17 to a lesser extent treasuries.</p> <p>18 Q. Is he still at HSBC, do you know?</p> <p>19 A. I have no idea.</p> <p>20 Q. Did he say what Central Bank was</p> <p>21 involved?</p> <p>22 A. No, he did not.</p>
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<p>1 the day preceding as opposed to just the morning</p> <p>2 of October 31?</p> <p>3 A. Well, according to this E-mail, the</p> <p>4 same E-mail, there was someone else, who actually</p> <p>5 I know who that person was. This is a person</p> <p>6 about that they heard it from a European Central</p> <p>7 Bank the prior day. That would be, I believe that</p> <p>8 would be Derrick Kehoe also at HSBC but in their</p> <p>9 London office who I spoke with from time to time</p> <p>10 because he dealt with Central Bank clients.</p> <p>11 Q. How do you spell Mr. Kehoe's last</p> <p>12 name?</p> <p>13 A. K-E-H-O-E.</p> <p>14 Q. And he was with HSBC at the time?</p> <p>15 A. At the time, and Central bank</p> <p>16 Services, I don't know the precise title, but did</p> <p>17 treasuries predominantly of Central banks.</p> <p>18 Q. In other words, there are foreign</p> <p>19 Central banks that buy and sell U.S. treasury</p> <p>20 bonds?</p> <p>21 A. Correct.</p> <p>22 Q. And he provided a brokerage service</p>	<p>1 Q. Were you surprised to get this report</p> <p>2 from Mr. Kehoe that a European Central Bank had</p> <p>3 advanced knowledge of a decision to eliminate the</p> <p>4 long bond?</p> <p>5 MS. WILLIAMS: Objection.</p> <p>6 A. I thought it was noteworthy and worth</p> <p>7 sharing with others in the department. So you can</p> <p>8 take that for what it is.</p> <p>9 BY MR. SHOPE:</p> <p>10 Q. Well, was there any follow up with Mr.</p> <p>11 Kehoe either by you or anybody else, to your</p> <p>12 knowledge?</p> <p>13 A. Not that I'm aware of. I mean, again</p> <p>14 at some point, it was communicated to me that</p> <p>15 further follow up from me was not required. And I</p> <p>16 sense that there was, how should I put it, some</p> <p>17 sensitivity on the part of Domestic Finance that</p> <p>18 this was their problem, that they wanted to handle</p> <p>19 it themselves, and I decided that the best course</p> <p>20 of action after having shared at that point in</p> <p>21 time what I knew, was to take a step back.</p> <p>22 Q. Had there been any other occasions</p>

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<p>1 Roseboro, who was the assistant secretary at the 2 time in Domestic Finance, where I, this was after 3 having the conversation with Brian I said there 4 were some people who commented who were very upset 5 and really had some strong views about what had 6 happened that morning, and that I thought it could 7 be useful for him to perhaps talk to those people 8 and hear their concerns, you know, to take some of 9 it in himself.</p> <p>10 And so I believe I sent some E-mail to some 11 individuals saying, you know, Brian Roseboro is a 12 nice guy, you know, very open to hearing what 13 people have to say about the situation, this 14 unfortunate situation, here's his number, give him 15 a call.</p> <p>16 Q. Did Mr. Roseboro make any follow up to 17 your discussion, to your knowledge?</p> <p>18 A. I don't know.</p> <p>19 Q. Did he give you any reaction to your 20 suggestion?</p> <p>21 A. He was supportive of trying to get 22 these people to call him, and I think he may have</p>	<p>1 recall the specifics of what I may or may not have 2 said to them. Candidly for me, Brian was always, 3 I thought he was the most senior in that whole 4 chain. He was always the easier individual to 5 talk to. I'm fairly confident I shared this with 6 him.</p> <p>7 Q. Did you have any concern that 8 Mr. Malvey potentially having given advance 9 information about this to Lehman Brothers might 10 not be the best person to be making any kind of 11 follow-up investigation?</p> <p>12 MR. FREEBORNE: Objection.</p> <p>13 MS. WILLIAMS: Objection.</p> <p>14 MR. FREEBORNE: You've got to break 15 that up. There's a predicate there that I think 16 is a false one.</p> <p>17 BY MR. SHOPE:</p> <p>18 Q. Well, we had the discussion earlier 19 about the meeting that you had with Mr. Matus and 20 your concern that Mr. Matus might have learned in 21 his meeting with Mr. Malvey about the decision to 22 eliminate the long bond; you recall that, right?</p>
<p>1 had a concern about doing it in a way that was non 2 threatening to them i.e., they had spoken to me 3 perhaps I should send them an E-mail indicating 4 the Treasury is very receptive to hearing what you 5 have to say.</p> <p>6 Q. Was there anybody else besides Mr. 7 Roseboro in Domestic Finance which whom you were 8 sharing the information that you had gathered 9 about reactions from the participants, you know, 10 the complaints that you received and so forth?</p> <p>11 A. Well, I mean, these E-mails went to 12 Tim Bitsberger and to Paul Malvey who were also as 13 well as Gerry Gross, all of whom were in Domestic 14 Finance.</p> <p>15 Q. I'm sorry. What I meant to ask was 16 the --</p> <p>17 A. The verbal.</p> <p>18 Q. Well, the verbal and the detail that 19 is not in these E-mails, for example, the names of 20 the people involved?</p> <p>21 A. At some point that day, I may have 22 also seen Paul Malvey and Tim Bitsberger. I don't</p>	<p>1 A. Yes.</p> <p>2 Q. We then have a controversy on 3 October 31. There are at least complaints and 4 allegations some people have learned this 5 information before others, correct?</p> <p>6 A. Yes.</p> <p>7 MS. WILLIAMS: Objection.</p> <p>8 BY MR. SHOPE:</p> <p>9 Q. In light of what you had already noted 10 about Mr. Malvey, did you have any concern that he 11 might not be the best person to be conducting a 12 follow-up investigation?</p> <p>13 MS. WILLIAMS: Objection.</p> <p>14 A. I had some concerns and I had no such 15 concerns about Brian Roseboro who I thought to be 16 a highly-ethical, outstanding individual, which 17 was why I'm fairly confident that I shared this 18 information with Brian.</p> <p>19 BY MR. SHOPE:</p> <p>20 Q. In other words, that was one reason 21 why you went up to Mr. Roseboro?</p> <p>22 A. Possibly. Yes. Possibly.</p>

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<p>1 is a difficult individual to talk to, in my 2 experience. I'm not sure how my question would 3 have been received.</p> <p>4 BY MS. WILLIAMS:</p> <p>5 Q. How was your working relationship with 6 Mr. Malvey?</p> <p>7 A. It was fairly minimal but again, we 8 were supposed to be in a group that was joint 9 between domestic and international, I think Paul 10 felt, my sense was that he felt that was a fairly 11 useless exercise and which was a bit of a 12 different situation than, for example, the view I 13 believe his superior, Brian Roseboro had.</p> <p>14 He seemed to think that there was some value 15 in it. There was some -- how should I put it, 16 strains in the relationship between international 17 and domestic finance over the whole operation of 18 the group and how it was run and who paid for what 19 and I think that, so, it wasn't easy necessarily 20 to go and talk to Paul about stuff like that.</p> <p>21 Q. When you said you had minimal, I think 22 is the term you used, how often do you all have to</p>	<p>1 with more senior domestic finance staff or 2 management.</p> <p>3 Paul was management, I guess, so and I don't 4 think that view was limited to Paul alone. But 5 there were some -- domestic finance was not a big 6 user of information from the group with the 7 exception of assistant secretary, Rose Pearl who 8 was more interested, he was in the domestic 9 finance chain and more interested in what the 10 group put out and produced.</p> <p>11 Q. The meetings that you said Mr. Malvey 12 and some more senior people in the international 13 division, were you part of those meetings?</p> <p>14 A. No, I was not part of these meetings. 15 Some of the discussions were conveyed or somewhat 16 shared with staff.</p> <p>17 Q. Now, you know when Mr. Shope was 18 questioning you said you had some concerns about 19 Mr. Malvey's conversation with Mr. Matus; is that 20 a fair statement?</p> <p>21 A. Yes.</p> <p>22 Q. And on what do you base the concerns?</p>
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<p>1 communicate in the course of your job?</p> <p>2 A. When, you know, you say communicate --</p> <p>3 Q. I don't mean by E-mail. I mean, how 4 often did you have to have a conversation with 5 him?</p> <p>6 A. Fairly infrequently. I mean, again, I 7 think Paul thought that, you know, sort of the 8 group was useless that, you know, he knew all he 9 needed to know about what was going on in the 10 treasury market and so.</p> <p>11 Q. Did you have a conversation with him 12 ever about his thoughts on that issue?</p> <p>13 A. On what issue?</p> <p>14 Q. Whether the group was useful or not?</p> <p>15 A. No.</p> <p>16 Q. On what do you base your statement 17 that you thought, about his thoughts. I'm just 18 trying to figure out how you knew his thoughts?</p> <p>19 A. That was some of the senior people in 20 international affairs which is the reporting 21 channel which time I worked in shared with me some 22 of the feedback that they had gotten from meetings</p>	<p>1 A. I had some concerns because again, I 2 was a little surprised to have Drew talking about 3 the elimination of the bond. Again, you know, he 4 seemed to have this view. He had met with Paul 5 and the concern really became -- I wasn't that 6 worried about it, you know, around the 20th, 23rd 7 whenever it was that those meetings occurred, it 8 was more when I had other dealers on the morning 9 of the 31st attributing some of the trading 10 activities to Lehman Brothers that I became 11 concerned about whether there was any kind of link 12 between a meeting that Drew may have had and so.</p> <p>13 Q. You stated that Mr. Matus also met 14 with Mr. Huther?</p> <p>15 A. That's what I was told.</p> <p>16 Q. Did you talk to Mr. Huther about the 17 meeting that he participated in with Mr. Matus on 18 the 22nd?</p> <p>19 A. A little bit.</p> <p>20 Q. What did you discuss?</p> <p>21 A. I believe at some point I may have 22 even said to Jeff, that I had a concern as to</p>

42 (Pages 162 to 165)

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<p>1 whether Paul may have shared -- this was later 2 when I worked for Jeff after Paul had left that I 3 may have had a concern about whether anything with 4 Drew seemed to have a view that the bond was going 5 to be eliminated and whether anything might have 6 been shared that shouldn't have been shared in 7 that meeting and Jeff indicated to me that, you 8 know, that I believe what he said was that nothing 9 like that had happened.</p> <p>10 Q. Did you have a similar concern about 11 Mr. Huther conveying information to Mr. --</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. I guess part of it comes to about 15 having had some experience working with Jeff 16 later. I think Jeff would not in my professional 17 experience with him not have crossed that kind of 18 a line, you know. This is again a personal view, 19 not a something that I can state with fact, but I 20 have a different perception of Mr. Malvey which is 21 perhaps unkind to say, but that's my perception of 22 him, which is colored by a few things that other</p>	<p>1 debt management but I'm not completely sure of 2 that. At some point I did ask.</p> <p>3 Q. When were you in debt management?</p> <p>4 A. That started, I believe, in 2004.</p> <p>5 Q. So you found out that Mr. Malvey had a 6 relative at Lehman Brothers you believe in 2004?</p> <p>7 A. I believe.</p> <p>8 Q. So at the time that you had this 9 concern on the 22nd when you talked to Mr. 10 Matus --</p> <p>11 A. I knew there was someone at Lehman 12 Brothers who had a similar last name, I didn't 13 have the name.</p> <p>14 Q. Do you know how often Mr. Malvey 15 communicated with that person at Lehman Brothers?</p> <p>16 A. No, I don't.</p> <p>17 Q. Do you know if they were ever in 18 communications?</p> <p>19 A. No, I don't.</p> <p>20 Q. Do you know how close a relative that 21 person was to Mr. Malvey?</p> <p>22 A. In 2001?</p>
<p style="text-align: center;">Page 167</p> <p>1 people have shared with me about their experiences 2 with him working with him.</p> <p>3 Q. Is your perception based on anything 4 other than people's perceptions about Mr. Malvey 5 that they shared with you?</p> <p>6 A. I always found Paul to be very -- I'm 7 sorry. Can you restate the question?</p> <p>8 Q. Yes. Your perception of Mr. Malvey 9 you said in part it was based on perceptions of 10 him that other people had that they had shared 11 with you. I wanted to know if there was anything 12 besides that that helped form your perception?</p> <p>13 A. I had some concerns also knowing that 14 Paul had a relative at Lehman Brothers about the 15 whole Lehman Brothers, that connection.</p> <p>16 Q. When did you learn Mr. Malvey had a 17 relative at Lehman Brothers?</p> <p>18 A. I believe it was -- I had wondered 19 about it when I had seen Jack Malvey's name on 20 some Lehman Brothers publications when I was in 21 the marketing group but I had not directly ever 22 asked. I think I found it out later when I was in</p>	<p style="text-align: center;">Page 169</p> <p>1 Q. Yes.</p> <p>2 A. No.</p> <p>3 Q. Do you know now?</p> <p>4 A. I believe it's his cousin, but I'm not 5 100 percent sure.</p> <p>6 Q. Do you know how often he talks or 7 communicates with his cousin?</p> <p>8 A. No.</p> <p>9 Q. Do you know how often he communicated 10 with him in 2001?</p> <p>11 A. No, idea. Since we're on the issue 12 though of Paul --</p> <p>13 Q. Wait. No. Question. Unless it's in 14 response to the last question about whether or not 15 you knew he communicate with him?</p> <p>16 A. No.</p> <p>17 MR. SHOPE: Or if she needs to correct 18 or give a complete answer to the prior question.</p> <p>19 MS. WILLIAMS: Is there another answer 20 to a question that was incomplete?</p> <p>21 A. You were asking a question about my 22 perception of Paul and what colored that. One of</p>

Exhibit I

Page 1

1

2

3

4 UNITED STATES DISTRICT COURT
5 FOR THE DISTRICT OF MASSACHUSETTS
6

7 UNITED STATES SECURITIES)
8 AND EXCHANGE COMMISSION,)
9)
10 Plaintiff,)
11 vs.) No. 05-10983
12 STEVEN E. NOTHERN,)
13 Defendant.)
14 -----)
15 VIDEOTAPED
16 DEPOSITION OF PETER R. FISHER
17 New York, New York
18 August 8, 2006
19
20
21
22
23

24 Reported by:
25 PAMELA J. MAZZELLA, RPR
26 JOB NO. 7046

1 Fisher
 2 October, but since you just mentioned the
 3 conversation that you are specifically
 4 remembering with Secretary O'Neill, I want to
 5 ask you about that.

6 Where were you?

7 A. I believe I was in his office.

8 Q. And the --

9 A. Might have been his dining room, I
 10 don't recall.

11 Q. And do you remember what time of
 12 day it was, anything like that?

13 A. No. I remember discussing with him
 14 and his suggestion that I also -- the main
 15 import of that conversation was that he asked
 16 that I also discuss the matter with Al
 17 Greenspan.

18 Q. And Mr. Greenspan was chairman of
 19 the Federal Reserve board at that time,
 20 correct?

21 A. Yes.

22 Q. So as we're getting into
 23 mid-October, besides the people whom you have
 24 identified, was the elimination of the long
 25 bond being discussed by anyone in the

1 Fisher
 2 Q. Well, we have a report of the
 3 Office of the Inspector General into the
 4 events of October 31, 2001.

5 First of all, were you aware that
 6 the Inspector General looked into the events
 7 surrounding the disclosure of the elimination
 8 of the long bond on October 31, 2001?

9 A. Yes.

10 Q. Did you ever read the Inspector
 11 General's report?

12 A. No, I don't believe I ever did read
 13 it.

14 Q. Did you ever see any kind of a
 15 draft or anything like that?

16 A. I don't -- I mean, I have seen
 17 copies of it. I certainly have not read it
 18 cover to cover and I don't recall reading a
 19 draft of it.

20 Q. Even though the distribution for
 21 the report lists two people, yourself and Ms.
 22 Davis, Michelle Davis, you don't believe you
 23 actually ever read through the thing?

24 A. That's correct.

25 Q. Well, we have already marked this

1 Fisher
 2 Treasury Department to your knowledge other
 3 than persons whom you have identified?

4 MS. WILLIAMS: Objection.

5 A. I have no recollection of any.

6 Q. So at the time that you had the
 7 discussion with Secretary O'Neill in which he
 8 requested that you discuss the matter with
 9 Mr. Greenspan, had you discussed elimination
 10 of the long bond with anyone other than the
 11 persons whom you have identified?

12 A. Not that I can recall.

13 Q. Okay. Now, do you know whether
 14 Secretary O'Neill had discussed elimination
 15 of the long bond with anyone other than the
 16 persons that we have identified so far?

17 MR. ROSSETTI: Objection.

18 A. I have no basis for speculating on
 19 that.

20 Q. So he didn't give you any
 21 indication as to whether or not he had spoken
 22 to anybody else in the administration at that
 23 point?

24 A. I have no basis for having an
 25 opinion on that.

1 Fisher
 2 as an exhibit so many times, hopefully we can
 3 keep the record uncluttered and I'll just
 4 read from it. But the --

5 MR. ROSSETTI: Do you have a page,
 6 John?

7 MR. SHOPE: Yes, I do.

8 Q. If you go to Exhibit 20, in the
 9 Inspector General's report, it's a memorandum
 10 of an interview with Brian Roseboro, and on
 11 the second page of the memorandum of the
 12 interview with Mr. Roseboro it is stated --

13 I'll just read a few sentences to you.
 14 "Roseboro said as the assistant secretary for
 15 financial markets, he had the authority to
 16 make the decision concerning suspending sales
 17 of the 30-year bond. In actuality, he said
 18 it was a deliberate decision within Treasury
 19 involving director of market finance, the
 20 undersecretary of domestic finance, and the
 21 secretary of staff. He said they received
 22 White House concurrence on October 26, 2001."

23 So let's start with the last point.

24 Do you recall there being White House
 25 concurrence with the decision to eliminate

<p style="text-align: right;">Page 78</p> <p>1 Fisher 2 the 30-year bond?</p> <p>3 A. Prior to making the announcement I 4 consulted with both Larry Lindsey, who was 5 the director of the National Economic 6 Council, and with Glenn Hubbard, the chairman 7 of the Council of Economic Advisors, 8 informing them of our intention of 9 eliminating the 30-year bond.</p> <p>10 I would not recall a date, but if 11 Brian's testimony is there is a specific date 12 where White House concurrence was sought, 13 that's likely to refer to the same event.</p> <p>14 Q. It's consistent with your memory 15 this took place approximately a week before 16 the announcement?</p> <p>17 A. Yes.</p> <p>18 Q. And let's take those two 19 conversations one by one.</p> <p>20 You said Mr. Hubbard, did I get 21 that right?</p> <p>22 A. Yes, Mr. Hubbard.</p> <p>23 Q. So how did that conversation take 24 place?</p> <p>25 A. I called him on the telephone.</p>	<p style="text-align: right;">Page 80</p> <p>1 Fisher 2 A. Yes. 3 Q. What about Mr. Lindsey, the 4 conversation with Mr. Lindsey?</p> <p>5 A. I remember a similar conversation 6 with Larry Lindsey and perhaps a little 7 briefer than my conversation with Glenn 8 Hubbard.</p> <p>9 Q. You may have said it, but just for 10 the record what was Mr. Lindsey's commission?</p> <p>11 A. He was the director of the National 12 Economic Council.</p> <p>13 Q. And that is something that is part 14 of the White House, right?</p> <p>15 A. As is the Council of Economic 16 Advisors, both of them would report directly 17 to the president.</p> <p>18 Q. And how many members are there of 19 those two council, the Council and the 20 Committee?</p> <p>21 A. The Council of Economic Advisors 22 has I think three members by statute. I 23 wouldn't recall the membership of the 24 National Economic Council. A number of 25 cabinet officers, perhaps eight or nine. I</p>
<p style="text-align: right;">Page 79</p> <p>1 Fisher 2 Q. And what did you say and what did 3 he say?</p> <p>4 A. I explained to him of our intention 5 of eliminating the 30-year bond and the 6 rationale for doing so, and I don't recall 7 him saying anything other than generally it 8 made sense to him, he understood.</p> <p>9 Q. What was the rationale that you 10 explained to him on that day?</p> <p>11 A. Not an efficient form of financing. 12 With both Mr. Hubbard and Mr. Lindsey, they 13 had a great deal of contact and conversation. 14 I don't think it required a lot of ground to 15 be covered. I probably highlighted a few of 16 the points covered in my statement.</p> <p>17 Q. So at that point you were already 18 drafting what your announcement was going to 19 be?</p> <p>20 A. I think that's likely. I don't 21 have a specific recollection, but that seems 22 likely.</p> <p>23 Q. That's what ultimately culminated 24 in your prepared remarks which were 25 distributed in a press release on October 31?</p>	<p style="text-align: right;">Page 81</p> <p>1 Fisher 2 don't have a recollection.</p> <p>3 Q. Do you know whether Mr. Lindsey or 4 Mr. Hubbard discussed the plan with the other 5 members of their respective Committee or 6 Council?</p> <p>7 A. I don't know. Neither one of them 8 anticipated my conversation with them, so 9 from that I did not think this issue was 10 being discussed inside the White House prior 11 to my raising it with them.</p> <p>12 They both understood the 13 sensitivity of the information. I have no 14 anticipation that they would share it with 15 others, but that was clearly up to them. I 16 don't know whether they did or not.</p> <p>17 Q. You didn't ask them not to disclose 18 it?</p> <p>19 A. No.</p> <p>20 Q. And so I take it did both of them 21 concur in the decision?</p> <p>22 A. I didn't ask for their concurrence. 23 I informed them of our intention and I didn't 24 ask for approval. That left it open to them 25 to object if they wanted to, and no</p>

21 (Pages 78 to 81)

1 Fisher
 2 objections were heard.
 3 Q: If they had objected, is that
 4 something that would have caused you to
 5 change course?
 6 A. I would have changed my
 7 conversation with them. I don't think it
 8 would have changed the fact that it was in
 9 the Treasury's authority to make these
 10 decisions.
 11 Q. But I'm not asking about what was
 12 the legal authority of people to take action.
 13 I'm asking about what your policy
 14 decision-making would have been had the two
 15 officials of the White House said no, don't
 16 do it?
 17 MS. WILLIAMS: Objection.
 18 A. It obviously would have changed
 19 matters. I don't want to speculate on how.
 20 I disagreed with them frequently on all sorts
 21 of matters, so that would be a rather routine
 22 process.
 23 Q. But you were giving them a week's
 24 notice of this plan that you had so that they
 25 would have a chance to object and you would

1 Fisher
 2 then have the opportunity to reconsider your
 3 position in light of their objection.
 4 Isn't that fair?
 5 MS. WILLIAMS: Objection.
 6 A. No, I don't think that's accurate.
 7 Q. This wasn't just a courtesy, "This
 8 is what I'm going to do in a week," was it?
 9 A. It's something in between the two
 10 versions you have just offered.
 11 Q. It was important to you that the
 12 White House concur with this, was it not?
 13 MS. WILLIAMS: Objection.
 14 A. No.
 15 Q. Did Mr. O'Neill tell you to consult
 16 with the White House about this?
 17 A. No.
 18 Q. You had just done this on your own
 19 initiative?
 20 A. Yes.
 21 Q. So at the time that you spoke with
 22 Secretary O'Neill had you already spoken to
 23 the White House?
 24 A. No, I don't believe so.
 25 Q. And did you follow up on Mr.

1 Fisher
 2 O'Neill's direction to speak with Mr.
 3 Greenspan?
 4 A. Yes, I did.
 5 Q. And when did you have that
 6 conversation?
 7 A. I don't recall the date. Some time
 8 in the latter half of October, so
 9 contemporaneous with these other
 10 conversations.
 11 Q. And what did you say to Mr.
 12 Greenspan and what did he say to you?
 13 A. I went over to his office, I
 14 described the, our intention and our
 15 rationale. And again I think it's fairly
 16 standard practice, such conversations, for
 17 people to understand who has the authority to
 18 make a decision, whose opinion is being
 19 sought, and Chairman Greenspan was certainly
 20 understanding of that. But the import of the
 21 conversation again was it made sense to him,
 22 he understood why we were planning on doing
 23 that.
 24 Q. In other words, what you're saying,
 25 it wasn't Chairman Greenspan's decision to

1 Fisher
 2 make?
 3 A. That's correct, and he would not
 4 pretend it was.
 5 Q. But you and Mr. O'Neill were very
 6 interested in his opinion?
 7 A. That's correct, yes.
 8 Q. So if Mr. Greenspan had given his
 9 opinion this was a lousy idea, that would
 10 have been an occasion for you to go back and
 11 reconsider.
 12 MS. WILLIAMS: Objection.
 13 Q. Fair statement?
 14 A. It would have required for a vote
 15 on our part.
 16 Q. Now, did you discuss with Mr.
 17 Greenspan whether or not this decision would
 18 have any effect on long-term interest rates?
 19 A. I think it may well have come up,
 20 but I don't have a specific recollection.
 21 Q. And did you discuss the question of
 22 whether or not the elimination of the long
 23 bond would have an effect on long-term
 24 interest rates with Mr. Lindsey?
 25 A. I believe the topic came up with

<p style="text-align: right;">Page 86</p> <p>1 Fisher 2 Mr. Lindsey. 3 Q. And what did you say on that 4 subject and what did he say? 5 A. I don't recall what he said. What 6 I recall that I said is that since we were 7 also planning on eliminating the Buyback 8 Program, the impact on long-term interest 9 rates was ambiguous. It was very hard to 10 predict, once you looked at the net effect of 11 the two decisions together, whether long-term 12 interest rates would rise or fall on the 13 announcement. 14 Q. So you had no expectation one way 15 or the other? 16 A. I expected that markets would 17 respond and they would respond with some 18 volatility. There was a possibility of 19 dramatic movements in prices. But given the 20 combined decisions to suspend issuance of 21 30-year bonds, but also to suspend the 22 Buyback Program, if you work through the math 23 of all of that, we were actually going to be 24 increasing the supply of long-term Treasury 25 bonds over what the market would otherwise</p>	<p style="text-align: right;">Page 88</p> <p>1 Fisher 2 don't recall what Mr. Lindsey said about 3 long-term interest rates? 4 A. I don't recall him responding to 5 that. I do recall him describing the 6 ambiguity about how interest rates might 7 respond. 8 Q. That was something that you just 9 raised on your own initiative then? 10 A. Yes. 11 Q. What about Mr. Hubbard, I take it 12 you raised the subject with him about the 13 effect on long-term interest rates? 14 A. I probably did. I don't have a 15 specific recollection. I do recall Mr. 16 Lindsey. I don't specifically recall Mr. 17 Hubbard, but I likely had the same outline, 18 thumbnail conversation. 19 Q. Do you recall any response by him 20 on that subject? 21 A. No, I don't. 22 Q. Now, you knew, obviously, this was 23 a subject of great interest to the 24 administration, correct? 25 MR. ROSSETTI: Objection.</p>
<p style="text-align: right;">Page 87</p> <p>1 Fisher 2 have been anticipating over the coming year, 3 which you would have thought would have led 4 to an increase in long-term interest rates as 5 more supply was on the market. 6 Q. So if there is more supply, the 7 price of the long bond goes down, right? 8 A. The yield would go up. 9 Q. Because the yield is the exact 10 converse of the price, or moves conversely I 11 should say? 12 A. But if the market only focused on 13 half of the equation and only focused on the 14 suspension of the long bond, then they would 15 see the other, they would only see part of 16 the math. They would only see reduction in 17 supply at the long end, meaning price goes 18 up, yield goes down. 19 And so I recall being very careful 20 in my conversation with Mr. Lindsey, but, as 21 I said, the topic may have come up with Mr. 22 Greenspan and also Mr. Hubbard that I thought 23 it very difficult to anticipate what the net 24 impact on long-term interest rates would be. 25 Q. And, I'm sorry, are you saying you</p>	<p style="text-align: right;">Page 89</p> <p>1 Fisher 2 MS. WILLIAMS: Objection. 3 A. No, I don't know that it was of 4 great interest to the rest of the 5 administration. 6 Q. In other words, the possible 7 decline in long-term interest rates you don't 8 believe was of great interest to the 9 administration? 10 MS. WILLIAMS: Objection. 11 A. Some members of the administration 12 may view a particular level of interest rate 13 as being a good or a bad thing. That 14 certainly wasn't my view. And I think we all 15 had maintained a view in the administration 16 that interest rate policy is left to the 17 Federal Reserve, monetary policy is something 18 to be conducted by independent Central Bank. 19 So I don't, I don't view this as 20 something that was acutely of interest to the 21 rest of the administration, no. 22 Q. Let's just back up a little bit. 23 Do you recall there being concern 24 in August and September of 2001 that the 25 economy was slowing down, even before the</p>

23 (Pages 86 to 89)

Exhibit J

David Aufhauser

Washington, DC

February 22, 2008

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS3 -----x
4 UNITED STATES SECURITIES :
5 AND EXCHANGE COMMISSION, :
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Washington, D.C.

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Friday, February 22, 2008

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Videotape Deposition of:

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David Aufhauser

Washington, DC

February 22, 2008

Page 38	Page 40
<p>1 e-mail.</p> <p>2 MR. FREEBORNE: Are you asking separate 3 and apart from the e-mail, or in connection with 4 the e-mail?</p> <p>5 BY MR. SHOPE:</p> <p>6 Q I'm asking you in connection with -- 7 separate and apart from the e-mail, just 8 generally.</p> <p>9 A No.</p> <p>10 Q Would you -- just sort of backing up 11 just generally speaking, would you have considered 12 the news that a European central bank had known of 13 the decision to suspend the long bond a day in 14 advance of its official announcement, would that 15 have been information of concern to you at the 16 time?</p> <p>17 MS. WILLIAMS: Objection.</p> <p>18 MR. WARIN: Objection.</p> <p>19 THE WITNESS: I don't know. I don't 20 know. If the Secretary of Treasury was talking to 21 the head of Central Bank of England, they talk 22 about all sorts of confidential matters. I don't</p>	<p>1 Q Okay. And were you aware that 2 Undersecretary Fisher had discussed in advance of 3 October 31 the decision to suspend issuance of the 4 long bond with persons in the White House?</p> <p>5 MR. KOLLAR: Objection.</p> <p>6 THE WITNESS: No, I'm not aware.</p> <p>7 BY MR. SHOPE:</p> <p>8 Q If Secretary Fisher had testified to 9 that, as he has, would that be surprising to you?</p> <p>10 MS. WILLIAMS: Objection.</p> <p>11 MR. WARIN: Objection.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. SHOPE:</p> <p>14 Q So I apologize if I asked this, but --</p> <p>15 A Okay.</p> <p>16 Q Would it be fair to say, then, you're 17 not aware of any follow-up investigation, at least 18 within the Treasury Department, as far as whether 19 or not someone in the European Central Bank did 20 have the information a day in advance?</p> <p>21 A No.</p> <p>22 MR. WARIN: Finished with Exhibit 4?</p>
<p>1 know whether it would have struck me as unusual.</p> <p>2 MR. SHOPE:</p> <p>3 Q Okay.</p> <p>4 A As a matter of fact, you do a lot of 5 advanced planning at that level on macro issues, 6 particularly four weeks within the largest 7 terrorist event in history.</p> <p>8 Q So it would not be surprising to you if 9 someone in the high level of Treasury Department 10 had shared that decision to suspend the long bond 11 with other central banks in advance of it being 12 announced?</p> <p>13 A I thought I was being careful. I didn't 14 say surprised.</p> <p>15 MR. WARIN: Objection.</p> <p>16 THE WITNESS: I said I didn't know, but 17 surely highly confidential discussions take place 18 at the highest level. As I put it, at the 19 Secretary's level. I did put it at a senior 20 level. So without knowing the facts and 21 circumstances, I don't know.</p> <p>22 BY MR. SHOPE:</p>	<p>1 MR. SHOPE: I think so. We may get back 2 to it, but if we could mark this as the next 3 exhibit. (Aufhauser Deposition Exhibit No. 5 was 5 marked for identification.)</p> <p>6 MR. WARIN: What is this?</p> <p>7 MR. SHOPE: Exhibit 5 has been 8 represented to us to be notes of Treasury 9 personnel. And in particular, this is understood 10 to be notes of discussions with the SEC.</p> <p>11 MS. WILLIAMS: By who?</p> <p>12 MR. SHOPE: By Treasury personnel.</p> <p>13 MS. WILLIAMS: No. Who made that 14 representation? I wasn't aware. I just got the 15 document. It's by Treasury. That's the only 16 representation. I knew there were documents 17 produced by Treasury.</p> <p>18 MR. SHOPE: Well, my understanding is 19 these are documents produced by Treasury. They 20 have been previously withheld. We can get into 21 when we're off the record.</p> <p>22 MR. WARIN: Whose notes are these?</p>

11 (Pages 38 to 41)

Exhibit K

Washington, DC

Page 1

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 - - - - -)
4 UNITED STATES SECURITIES AND)
5 EXCHANGE COMMISSION,)
6 Plaintiff,)
7 v.) No. 05-10983 (NMG)
8 STEVEN E. NOTHERN,)
9 Defendant.)
10 - - - - -)
11 Washington, D.C.

12 Friday, June 23, 2006
13 Deposition of PAUL FRANCIS MALVEY, a witness herein,
14 called for examination by counsel for Defendant in
15 the above-entitled matter, pursuant to agreement, the
16 witness being duly sworn by CHERYL A. LORD, a Notary
17 Public in and for the District of Columbia, taken at
18 the offices of FOLEY HOAG LLP, 1875 K Street, N.W.,
19 Suite 800, Washington, D.C., at 10:10 a.m., Friday,
20 June 23, 2006, and the proceedings being taken down
21 by Stenotype by CHERYL A. LORD, RPR, CRR, and
22 transcribed under her direction.

23

24

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Page 246	Page 248
<p>1 of sales of the 30-year bond, so that is -- that's 2 not going to the question of whether or not there's a 3 last bite at the apple. 4 That's going to the question as to when 5 you announce.</p> <p>6 A. No, because --</p> <p>7 MS. WILLIAMS: Objection.</p> <p>8 A. -- the reason that January 30 would be 9 better is because we had a scheduled 30-year auction 10 in February, and that's why it would have been better 11 to announce it, because the investors -- it's just 12 not finished out in this sentence here, because 13 whoever wrote these notes didn't make the connection 14 between the January 30 announcement and the February 15 settlement of a 30-year bond.</p> <p>16 That's what -- that's the reason I was 17 saying Jan 30 would have been better for the 18 announcement, because that would have been right 19 before the sale of a preschedule -- already on the 20 schedule 30-year bond.</p> <p>21 That's what I meant.</p> <p>22 BY MR. SHOPE:</p> <p>23 Q. Yeah, but you could have made the 24 announcement on October 31 and then announced that 25 there would be a last bite at the apple in February.</p>	<p>1 the time. 2 And somebody asked me that, and after 3 having been at the other side of the table listening 4 to Peter's arguments about his view of the 30-year 5 and having made my arguments about my view of the 6 30-year, I think he would have made the same 7 arguments in August.</p> <p>8 And so, yes, I -- I -- who the hell knows, 9 but I think he would have made the same arguments in 10 August. Whether we would have made the announcement 11 in August is another thing, because he would have had 12 to justify making the announcement in August to the 13 rest of us too.</p> <p>14 Q. But I mean, but basically this gets the 15 gist -- that was your opinion?</p> <p>16 A. Yeah, it gets the gist, yeah.</p> <p>17 Right.</p> <p>18 MS. WILLIAMS: Objection.</p> <p>19 A. All right. And the one, 2, 3 -- third 20 full paragraph talking about Drew Matus.</p> <p>21 He came in -- I think he may have 22 scheduled to meet with Jeff, but Jeff was also new. 23 I think Jeff had only been there since August, I 24 think.</p> <p>25 BY MR. SHOPE:</p>
<p>1 Right? 2 MS. WILLIAMS: Objection.</p> <p>3 A. He could have. 4 I mean, coul'da, woulda, shoul'da. 5 It's -- it would have -- I'm sorry. 6 I didn't mean to be disrespectful, but 7 because there was such a scarcity premium on the 8 security to start with, that would have given 3 9 months for the markets to gyrate around and be more 10 volatile at the long end because of all the 11 uncertainty about its future, where if you made the 12 announcement on January 30, the sale would be 5 days 13 later, and WY market would have established the 14 market price, and there was much less chance for 15 volatility.</p> <p>16 BY MR. SHOPE:</p> <p>17 Q. Okay. So what else was inaccurate in 18 exhibit 11?</p> <p>19 A. I'm not saying inaccurate. 20 I'm just saying it didn't convey the 21 flavor.</p> <p>22 And it's -- it -- the next sentence says: 23 It was also Malvey's opinion that undersecretary 24 Fisher would have made the announcement at the 25 quarterly funding meeting if he had been confirmed of</p>	<p>1 Q. You're speaking of Jeff Huther now? 2 A. Jeff Huther. Right. 3 And I think it was because Woody was 4 either about -- was -- oh, here it is. 5 He was vice chairman. The -- usually the 6 chairman of the borrowing advisory committee, his 7 staff works up these pro forma forecasts that I 8 mentioned earlier today, and for some -- and the 9 vice-chairman usually follows the chairman -- that's 10 also almost pro forma. 11 And the October meeting would have been 12 the last meeting for the outgoing chairman, and Drew, 13 some reason Woody asked Drew to do these things. He 14 had never done them before. 15 So he worked up these pro forma 16 forecasts -- he had access to other ones out there 17 and previous ones, and he worked up these pro forma 18 forecasts. And I don't know if he came down to 19 Washington specifically for that, but he asked Jeff, 20 is it okay if I run these by you to tell me whether 21 they're reasonable, a reality test or something like 22 that. 23 And I mean, it says that I spoke with him 24 briefly, but it might have been -- "briefly" is -- 25 the 2 of them came into my office, and we put these</p>

Paul F. Malvey

Washington, DC

June 23, 2006

<p style="text-align: right;">Page 250</p> <p>1 things out on the table in front of us, and asking 2 me, you know, does all this stuff look reasonable and 3 stuff, so I -- it was -- I forget exactly what the 4 nature of the conversation, but I might have said 5 something like, what if it -- do you have any 6 alternatives, what if Woody says, how about this, are 7 you ready to go with alternatives, I mean, because 8 the meeting is going to be next Tuesday, he's 9 going -- he has -- he has -- well, proper prior 10 preparation, so I was trying to help him out like I 11 help a lot of people.</p> <p>12 Q. One of those alternatives would have been 13 suspending the issuance of the long bond.</p> <p>14 Right?</p> <p>15 MS. WILLIAMS: Objection.</p> <p>16 A. It -- not necessarily would have been, but 17 it may have come up. I don't recall it coming up. 18 I mean, I don't -- I don't recall him 19 having 2 scenarios, but maybe he did. I don't know. 20 I just remember looking and seeing if it's 21 feasible, because we were making so many changes, 22 and, you know, I may have asked him, do you have an 23 alternative scenario if the long bond is not there, 24 or something like that.</p> <p>25 I don't know. I don't recall saying it,</p>	<p style="text-align: right;">Page 252</p> <p>1 BY MR. SHOPE: 2 Q. So you're saying you just don't remember 3 one way or the other whether or not the suspension of 4 the long bond came up in your discussion with 5 Mr. Matus of William Brothers? 6 A. I don't recall the discussion coming up. 7 But I wouldn't be surprised if I said 8 things like, do you have an alt- -- what if -- what 9 if we -- the -- what if the long bond is eliminated 10 sometime in the next year, do you have an alternative 11 for that. What if we go from quarterly to semiannual 12 tens, 10-year securities. 13 And it was more like I'd say, well, what 14 if Woody says, how about this. It was kind of like 15 asking him questions trying to get him prepared for 16 his boss to get ready for this meeting, you know. 17 Q. M-hm. 18 A. But I don't recall the context of this 19 300- -- or 800-pound elephant. 20 Q. Well, the testimony obviously will speak 21 for itself. 22 Now, were there any other inaccuracies 23 that you noted -- 24 A. Yeah. 25 Q. -- in exhibit 11?</p>
<p style="text-align: right;">Page 251</p> <p>1 but I -- it just seems like -- 2 BY MR. SHOPE: 3 Q. Well, that was the elephant in the room, 4 wasn't it? 5 MS. WILLIAMS: Objection. 6 A. I don't think so. 7 BY MR. SHOPE: 8 Q. I thought -- didn't you refer to that as 9 the elephant in the room earlier today in your 10 deposition? 11 MS. WILLIAMS: Objection. 12 A. I don't recall my context. 13 BY MR. SHOPE: 14 Q. To suspending the long bonds. 15 A. Yeah, I know, but -- 16 Q. This is an issue at the October 30 -- 17 there was an elephant in the room, as you say, at the 18 October 30 meeting of the borrowing advisory 19 committee. 20 MS. WILLIAMS: Objection. 21 I think this mischaracterizes his 22 testimony. 23 A. I don't recall saying that. And we just 24 went over the minutes, and it doesn't -- it's not 25 included in there.</p>	<p style="text-align: right;">Page 253</p> <p>1 A. I don't know. All right. 2 The last paragraph on page 2 continues 3 on -- I'm not quite -- I'm -- it's a long time ago, 4 but I -- I remember answering the phone and asking 5 Jill. 6 Then the next page says, I introduced 7 myself to him at a press conference in 1996. And 8 it's -- it -- this is something I have a recollection 9 of, is, I walked over, and Jill and Roger were 10 standing over -- point out exactly where they were 11 standing. 12 They were standing by the side door. And 13 Roger had done the press conference, so I think -- so 14 that had to have been pre-Gensler. They were just 15 standing there making small talk. 16 And I was Jill's deputy and just walked 17 over and say, good job, Roger, or something like 18 that. And he introduced me to -- Paul, this is Pete 19 Davis, Pete Davis, Paul Malvey. And, hi. 20 And Roger says, he's one of the good guys. 21 And I think I mentioned that earlier today, because 22 Roger just -- Roger is a man of few words. 23 Q. M-hm. 24 A. And for him to say, one of the good guys, 25 I remember saying, I wonder what he means by that,</p>

64 (Pages 250 to 253)

1111 14th Street, NW Suite 400

Alderson Reporting Company
1-800-FOR-DEPO

Washington, DC 20005

Exhibit L

Page 1	Page 3
1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION	1 C O N T E N T S
2	2
3 In the Matter of:)	3 WITNESSES EXAMINATION
4) File No. HO-09353-A	4 Ray Walton 4
5 TRADING IN CERTAIN TREASURY ISSUES)	5
6 WITNESS: Raymond E. Walton	6 EXHIBITS: DESCRIPTION IDENTIFIED
7 PAGES: 1 through 135	7 67 Subpoena to Mr. Walton 7
8 PLACE: Securities and Exchange Commission	8 68 Emails from R. Walton 41
9 Midwest Regional Office	9 69 Reuters news report 79
10 175 West Jackson Boulevard	10 70 Cantor Fitzgerald trading records 79
11 Suite #900	11
12 Chicago, Illinois, 60604	12
13 DATE: Wednesday, April 23, 2003	13
14	14
15 The above-entitled matter came on for hearing, pursuant	15
16 to notice, at 2:00 p.m.	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24 Diversified Reporting Services, Inc.	24
25 (202) 467-9200	25

Page 2	Page 4
1 APPEARANCES:	1 P R O C E E D I N G S
2 On behalf of the Securities and Exchange Commission:	2 MR. ROSSETTI: It's April 23rd, 2003. This is John
3 JOHN J. ROSSETTI, JR., Senior Attorney	3 Rossetti. I'm on the telephone from Washington D.C. on with
4 ANDREW SPORKIN, Branch Chief	4 Andrew Sporkin. The time here is 2:57. The time in Chicago
5 Securities and Exchange Commission	5 where the witness and counsel and the court reporter are is
6 Midwest Regional Office	6 1:57.
7 175 West Jackson Boulevard	7 Whereupon,
8 Suite 900	8 RAYMOND E. WALTON
9 Chicago, Illinois 60604	9 was called as a witness and, having been first duly sworn,
10 (202) 942-4672 (Rossetti questioned by phone)	10 was examined and testified as follows:
11	11 EXAMINATION
12 On behalf of the Witness:	12 BY MR. ROSSETTI:
13 ERIC A. BENSKY	13 Q Would you please state your full name and spell it
14 Dickstein, Shapiro, Morin & Oshinsky, LLP	14 for the record?
15 2101 L Street, N.W.	15 A Raymond Edward Walton. That's R-a-y-m-o-n-d.
16 Washington, D.C. 20037-1526	16 Middle name Edward, E-d-w-a-r-d. Last name Walton, W-a-l-t-
17 (202) 955-6613	17 o-n.
18	18 Q Mr. Walton, I'm John Rossetti and with me is Andrew
19	19 Sporkin. We are both officers of the Commission for this
20	20 proceeding. This is an investigation of the United States
21	21 Securities and Exchange Commission In the Matter of Trading
22	22 in Certain Treasury Issues to determine whether there have
23	23 been violations of certain provisions in the federal
24	24 securities laws.
25	25 However, the facts developed in this case might

Page 1 - Page 4
 Diversified Reporting Services, Inc. (202) 467-9200, 04-23-03

SECNOTH00116628

Page 41	Page 43
1 in connection with information?	1 Ray, when you said a moment ago that it appears that you sent
2 A Yes.	2 this e-mail, you based that on the fact that you see your
3 Q And, what did you learn?	3 name in the firm line?
4 A I seemed to remember learning that it was common	4 THE WITNESS: Correct.
5 that reporters would learn of announcements before they were	5 MR. SPORKIN: Do you base that on anything else?
6 actually released and that they were required then to not	6 THE WITNESS: Just from the come line.
7 release any information about it until the actual release	7 MR. SPORKIN: Okay.
8 time. Until the actual data was actually released.	8 BY MR. ROSSETTI:
9 Q And from where did you learn that?	9 Q There's a mail to there, it says
10 A If I'm not mistaking, I'm not 100 percent sure, but	10 rwal@bloomberg.net. Do you recognize that e-mail address?
11 I believe this series of Wall Street Journal articles	11 A Yes.
12 concerning the activities around the Treasury announcement	12 Q Is that your e-mail address?
13 from the 31st.	13 A Yes, it is.
14 Q At this time I'd ask the Court reporter to hand the	14 MR. SPORKIN: This is Andrew Sporkin. Is there
15 witness Exhibit 68. Just let me know when you've done that.	15 somebody else that could have sent this e-mail besides
16 Mr. Walton, do you have Exhibit 68 now?	16 yourself?
17 (SEC Exhibit No. 68 was marked for	17 THE WITNESS: Yes, it's possible. Either Gus or
18 identification.)	18 Wes could have sent it because we only have one machine and
19 A I do. I'm reviewing it now.	19 its got my name on it. One address.
20 Q Okay. And for the record, this is a series of	20 MR. SPORKIN: Do you recall sending this message?
21 three e-mails on October 31st, 2001 from Ray Walton to	21 THE WITNESS: Yes, I do.
22 undisclosed recipients at 9:28 a.m., 9:31 a.m. and 9:42 a.m.	22 MR. SPORKIN: And why is that you sent this
23 Let me know when you're through reviewing those,	23 message? Let me ask you this, it says undisclosed
24 Mr. Walton.	24 recipients. Are you able to tell us who those recipients
25 A I have reviewed them, yes.	25 were?
Page 42	Page 44
1 Q Are those e-mails that you sent out to undisclosed	1 THE WITNESS: At that time, this is my best
2 recipients?	2 recollection, I would have guessed it would have gone to Nick
3 A Apparently, yes.	3 and Zizek, certainly. Probably a guy at Lehman.
4 Q And I'll have you turn to the first one, there.	4 MR. SPORKIN: Who would that have been?
5 And you'll see in the lower right hand corner the base number	5 THE WITNESS: Jon Hoffman. Probably one of two
6 is GSO3306. Do you see that?	6 guys, potentially at UBS.
7 A Correct.	7 MR. SPORKIN: Who would they have been?
8 Q Okay. And this says that subject Lehman buys 1.5K,	8 THE WITNESS: Eric Mohammed and Mark Gannon. Boy,
9 USZ up to 17. Still buying. Can you translate for me what	9 difficult for me to be sure of who else might have been on
10 that means?	10 that list at that time.
11 A That means that the house or Lehman desk was buying	11 MR. SPORKIN: I understand that you don't know for
12 1,500 December Treasury bond contracts up to 17 and	12 sure, but tell me, who do you think might have been on that
13 apparently, looks like they were still bidding for more, or	13 list, as well?
14 trying to buy more at that time.	14 THE WITNESS: Potentially Claude Lamedica, HSBC.
15 Q What do you mean up to 17? Is that 17, 30 seconds?	15 Oh, boy.
16 A That is correct.	16 MR. SPORKIN: While we're here. Can you spell
17 Q And they were still bidding beyond that? Beyond	17 Lamedica for the record?
18 the 17, 30 seconds?	18 THE WITNESS: It's L-a-m-e-d-i-c-a.
19 A Difficult for me to say that they were bidding at a	19 MR. SPORKIN: Anybody else that you can recall?
20 higher price. Or they may have been bidding the same price	20 THE WITNESS: Not specifically, no.
21 or even potentially a lower price.	21 MR. SPORKIN: Is there any question in your mind
22 Q Based on this e-mail, were you conveying that they	22 that Nick Buhta and Zizek Sukhatne would have been a
23 bought 1,500 contracts and were still buying more?	23 recipient of this e-mail, or would have been somebody that
24 A Correct.	24 you would have sent it to?
25 MR. SPORKIN: Just to clarify something, John.	25 THE WITNESS: I would have, it definitely would

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1 have been somebody I sent it to. I can't remember with any
 2 certainty if they were on this list of people that I sent
 . his to.

MR. SPORKIN: Right, okay.

5 THE WITNESS: Because there's times, there were
 6 times when they wouldn't always have been on the list because
 7 I was on the phone with them so much. So it's difficult for
 8 me to say with any certainty. But my guess would be, yes.
 9 MR. SPORKIN: All right. And the next question is,
 10 why, did you send this e-mail?

11 THE WITNESS: Lehman is certainly a big player in
 12 the fixed income market. I recall them being active during
 13 this general time frame. When I say that, you know, several
 14 weeks, months they've been coming in, doing large trades on a
 15 pretty regular basis. This, from what I recall, struck me as
 16 potentially being part of what was being build a bigger
 17 trade.

18 BY MR. ROSSETTI:

19 Q What do you mean by that?

20 A Just by the phrasing, and from what I remember,
 21 they say, I'm saying that they bought 1,500 up to 17 and
 22 they're still buying. It seems to me that, you know, it
 23 looked like they were still bidding the market and that, you
 24 know, the market was, you know, well bid and to some degree.

25 Q Let me just represent to you that at the time of

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his e-mail, at 9:28, the bond, the futures contracts were
 2 trading in the 108 range, it would be like 108. So, putting
 3 that in context with the 17 there, it would be 108, 17, 30
 4 seconds?

5 A Right. You saying the handle was 108, it would
 6 have been 108, 17, that is correct.

7 Q Okay. Now, we were discussing, you said earlier
 8 that Lehman was one of your clients?

9 A Correct.

10 Q Were they purchasing these contracts through you or
 11 any of your agents?

12 A No.

13 Q Who were they purchasing them through, do you know?

14 A Another broker in the bond pit. I honestly
 15 wouldn't, I can't recall which broker it was.

16 Q Would you have known, at that point?

17 A I would have known --

18 Q You sent this out, would you have known, I mean, it
 19 was something you would have known then but you don't recall
 20 now?

21 A I, oh, yes. Which broker executed trade in the
 22 pit?

23 Q Yes.

24 A I would have known, yes.

Q Now, the, Lehman was one of your clients. Why is

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1 it that you would have advised another client, that being at
 2 least Goldman Sachs, to Nick Buhta and Zizek Sukhatne, that
 3 Lehman was doing this?

4 A Lehman is one of my clients. They are, but I have
 5 a relationship with an individual. I think at that time,
 6 maybe two individuals at Lehman, specific traders. Lehman,
 7 when I, when I generically refer to Lehman in this regard, it
 8 could be any potential trader or customer that may have been
 9 executing a trade through Lehman Brothers. There are, one of
 10 their desks on the floor. So, I just observed in the, you
 11 know, on the floor, that the Lehman desk was buying, in this
 12 case, apparently, 1,500 contracts up to 17 and since I was
 13 observing that and not a trade that I was involved in, you
 14 know, that's definitely information that I would pass along.

15 Q If you were, if they had purchased those 1,500
 16 contracts through you, would you have conveyed that
 17 information to Goldman Sachs or any other, any of your other
 18 clients?

19 A I may have conveyed to them that we have been
 20 seeing a buyer. I would not have referred to them,
 21 specifically, at all.

22 MR. SPORKIN: Now, this is Andrew Sporkin, Mr.
 23 Walton. When you say that they buy, that Lehman buys 1,500
 24 contracts, is this something out of the ordinary for them to
 25 buy 1,500 contracts?

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1 THE WITNESS: Certainly not out of the ordinary.
 2 Again, as I remember it, it just in the context of the fact
 3 that they had been coming in on a fairly regular basis and
 4 doing some large trades. So, one of my jobs is to observe in
 5 the market if I'm seeing things that may look similar to
 6 activities that we've seen in the past. So, I probably felt
 7 compelled to pass this information along, you know, thinking
 8 that maybe this was going to be part of a bigger trade.

9 MR. BENSKY: Just a second please, Andrew. I'm
 10 sorry.

11 COURT REPORTER: Note for the record that counsel's
 12 conferring with his client.

13 MR. BENSKY: Thank you.

14 BY MR. ROSSETTI:

15 Q Now you said that you were seeing, as part of a
 16 larger trade, was this like other trades that morning or
 17 prior days?

18 A Prior days.

19 Q Now, 1,500, the 1,500 contracts, in and of itself,
 20 is that a large, is that, would you consider that a large
 21 trade?

22 A Yes.

23 Q But it's not something that was out of the
 24 ordinary?

25 A No.

<p style="text-align: right;">Page 49</p> <p>1 Q The, you sort of touched on, is one of your jobs as 2 being a representative of your various client to keep them 3 apprised of the action that's going on in the floor? 4 A Yes. 5 Q In advising your client of what's going on in the 6 floor, is that something you advise all your clients of, or 7 do you pick and choose? You're just going to tell some and 8 not others? 9 A Difficult to characterize that specifically. You 10 know, there's a lot of information that could come from a 11 variety of sources. It's really client specific. 12 Q When we, you and I had a discussion a while back, 13 December 5th, 2001. Do you recall that telephone 14 conversation we had? 15 A I recall the conversation, us having a 16 conversation, yes. 17 Q Thanks. One of the things we discussed, you know, 18 prior to this e-mail, that it was a relatively quiet morning 19 in terms of trading. Do you recall that, at all? 20 A That's my recollection, yes. 21 Q Would this, this Lehman trade, was that, would have 22 been the most significant trade that occurred that morning in 23 the bond futures? 24 A Difficult for me to say. 25 Q Let me have you turn to the next e-mail. It's</p>	<p style="text-align: right;">Page 51</p> <p>1 Q All right. And that was the bond futures 2 contracts? 3 A Yes. 4 Q The, you said you didn't' do the 15, did you do the 5 500 contracts? The additional 500 contracts that they 6 apparently purchased? 7 A I'm sorry. Can you repeat that question? 8 MR. SPORKIN: He's asking you whether -- 9 BY MR. ROSSETTI: 10 Q They purchased 1,500 contracts -- 11 A Right. 12 Q -- that morning. And then, you said they're up to 13 a total of 200, which means they purchased an additional 500. 14 A Correct. 15 Q My question is did you do that transaction for 16 them? 17 A Oh, no. I did not execute that, no. 18 Q Okay. Then there is another e-mail. The last in 19 this series. Is GS3310. Again, is this an e-mail that you 20 sent out, Mr. Walton? 21 A Yes. 22 Q And again, the recipients would have been the same 23 people that we've been discussing? 24 A Likely, yes. 25 Q All right. Can you, the subject line says size</p>
<p style="text-align: right;">Page 50</p> <p>1 bates number, still on Exhibit 68, it's bates stamped number 2 GS03308. You see that -- 3 A Yes. 4 Q Again, is this an e-mail that you sent out? 5 A Yes. 6 Q And would the undisclosed recipients be the same 7 people we discussed earlier? 8 A Again, difficult for me to say, but, likely, yes. 9 Q It says here Lehman 2K, now still buying. What 10 does that mean? 11 A It means Lehman's bought a total of 2,000 and still 12 buying. 13 Q Is that accumulative or is that in addition to the 14 1.5 from the previous e-mails? 15 A I would say accumulative based on what I've, I'm 16 seeing here. 17 Q That was up, as of 9:31 they had purchased that 18 morning 2,000 bond futures contracts? 19 A Not necessarily that morning, in this little time 20 frame. 21 Q Well, I mean, from, from the 9:28 to 9:31 they 22 would have purchased, well they had the 1,500, then they 23 would have purchased an additional 500 that morning? 24 A Apparently, from what I've wrote, yes, that's 25 correct.</p>	<p style="text-align: right;">Page 52</p> <p>1 buyers of US selling TY. Can you explain what that means? 2 A It's what we would call an Op trade. So, in this 3 instance, people were, the same person, or the same desk, was 4 buying bonds selling 10 year contracts. Buying December 5 bond, or bond contracts, December bond contracts in this 6 case, selling December 10 year contracts. 7 Q And how did you learn that information? 8 A I would guess that I observed it as, you know, as 9 it was being transacted on the floor. 10 Q The pit area, where the 10 year were being 11 transacted, is that the same pit area where the 30 years are 12 being transacted? 13 A No. 14 Q No. Where is the ten year pit in relation to the 15 30 year pit? 16 A As I'm looking at it, it is to my left. 17 Q To you left. I mean, by, from where you sit and 18 you're looking at the 30 year pit -- 19 A Correct. 20 Q Okay. Where is the 30 year pit in relation to you? 21 A To my right. 22 Q About 20 yards? 23 A Yeah. Up in front of me to my right. 24 Q All right. 25 A 20 yards.</p>

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SECNOTH00116640

Goldman Sachs E-Mail

From: RAY WALTON, CANTOR, FITZGERALD & [RWALT@bloomberg.net]
Sent: Wednesday, October 31, 2001 9:28 AM
To: undisclosed-recipients
Subject: lehman buys 1.5k usz up to 17, still buying

Confidential Treatment
Requested by
Goldman Sachs Group

GS 00105

Attachment 3

-----Original Message-----

From: RAY WALTON, CANTOR, FITZGERALD & [mailto:RWALT@bloomberg.net]
Sent: Wednesday, October 31, 2001 9:28 AM
To: undisclosed-recipients
Subject: lehman buys 1.5k usz up to 17, still buying

GS 01779

Confidential Treatment Requested by Goldman, Sachs & Co.

SECNOTH00096029

Goldman Sachs E-Mail

From: RAY WALTON, CANTOR, FITZGERALD & [RWALT@bloomberg.net]
Sent: Wednesday, October 31, 2001 9:31 AM
To: undisclosed-recipients
Subject: Lehman 2k now still buying

Confidential Treatment
Requested by
Goldman Sachs Group

GS 00106

Attachment 5

-----Original Message-----

From: RAY WALTON, CANTOR, FITZGERALD & [mailto:RWALT@bloomberg.net]
Sent: Wednesday, October 31, 2001 9:31 AM
To: undisclosed-recipients
Subject: lehman 2k now still buying

GS 01781

Confidential Treatment Requested by Goldman, Sachs & Co.

SECNOTH00096031